MR. CHAIRMAN: You have not taken the permission.

श्री बनारसी दास गुप्त: सभापति जी, पंजाब के मुख्य मंत्री श्री प्रकाश सिंह बादल ने बयान दिया है कि...(व्यवधान)...लिंक नहर...

MR. CHAIRMAN: I have not permitted you to raise this. (*Interruptions*) Nothing will go on record. Shri Gurudas Das Gupta, please. (*Interruptions*) आप को समय देंगे। आप मेरे पास आते, मैं आप को समय देता। समय के अनुसार मैं आप को जरूर मौका दूंगा।

I. STATUTORY RESOLUTION SEEKING DISAPPROVAL OF THE PATENTS (AMENDMENT) ORDINANCE, 1999 (NO. 3 OF 1999)

II. THE PATENTS (AMENDMENT) BILL, 1998

SHRI GURUDAS DAS GUPTA (West Bengal): Sir, while moving the Statutory Resolution, I have to seek a clarification and one piece of information, which I consider to be vital, from my good friend, the hon. Minister, Shri Sikander Bakht. I would most respectfully like to know if the Government is in possession of a *suo motu* report of the Law Commission and if the Government is in receipt of such a *suo motu* report from the Law Commission, whether the Government has considered that report, whether the Government has been able to look into the five amendments which the Law Commission has suggested and whether any of the amendments, that have been suggested or proposed by the Law Commission, has been incorporated in the Bill passed or sought to be passed or presented in the other House. I would like to know whether it has been incorporated. If it has not been incorporated, then it is incumbent on the Government to let us know why it has not been incorporated. I do not, for a moment, suggest that the Commission's recommendations are mandatory on the Government. But since the Law Commission is a statutory body, since the Law Commission is an important body, set up by the Government to advise the Government on the question of inactment of law, I would like to know whether the Government is legally bound because the Government has a moral responsibility to look into it. I would like to know whether enough consideration was given to the report. If no consideration has been given, why has there been no consideration? Above everything, my good friend speaks of transparency. I believe he is a transparent personality. I also believe that the Government works on principles of transparency. Why has the report not been shared with us? Why has it not been tabled? If there is no provision for tabling it, why has it not been shared and why has it been kept as a guarded secret? Does is not give rise to a serious suspicion that the Government has something to gain by keeping it a well-guarded secret? I do not impute a motive because I cannot impute a motive to a gentleman. But the motive becomes obvious because there is a lurking suspicion that the report has been kept secret deliberately as it is inconvenient for the Government, because the Government believes if the report is made public, many of the past pronouncements that the Government sought to make from the pulpit, would fall flat. The loopholes, the gaping loopholes in the report, which vitally affect the interests of the nation, have not been taken into consideration. Sir, I beg to submit most regretfully because this is also our Government, that this Government has surrendered the interests of the country. I submit this most regretfully. Most regretfully I submit that all that has been said in the report points out seriously to the inadequacies in safeguarding the national interest. That is what the report says. So, if such a comment had been made in the report, it was altogether incumbent on the Government to come to us and say that this was the reaction. Otherwise, silence may be golden, but here silence speaks more than...(*Interruptions*) He is reminding me of ULIP. Sir, silence is more intriguing than the voice of the Minister. I seek

your indulgence, Sir, I am in possession of the full report which the Government has kindly not submitted to us. But there are bound to be friends of the people, who fight for commitment and I have my friends. One of my friends gave the report to me, maybe, causing a grave embarrassment to the hon. Minister. Sir, the report was forwarded to Shri Thambi Durai, the Minister of Law, Justice and Company Affairs on 26th February, 1999. But, Shri Thambi Durai is not the only recepient. The report was sent to the hon. Minister of Industry; the report was sent to the Prime Minister also. Sir, the report says—the first paragraph of the report says — I am reading out...

THE MINISTER OF INDUSTRY (SHRI SIKANDER BAKHT): Sir, as a formality, he should first move the Resolution.

MR. CHAIRMAN: This is the part of the speech. ...*(Interruptions)*... This is the part of the speech. ...*(Interruptions)*...

SHRI SIKANDER BAKHT: Okay, fine. Secondly, it was never sent to me. ...*(Interruptions)*...

MR. CHAIRMAN: You can reply it at the time of the reply.

SHRI GURUDAS DAS GUPTA: Sir, I know the hon. Minister is embarrassed, but what can I do?

श्री सिकन्दर बख्तः गलत बयानी से कोई शरीफ आदमी एमबैरस हो सकता है।

†[شری سکندر بخت: غلط بیانی سے
کوئی شریف آدمی امبیرس ہو سکتا ہے۔]

श्री गुरूदास दासगुप्तः इनके काम गलत हैं।

Sir, the letter is dated 26th February, 1999, addressed to Shri Thambi Durai, signed by no other person than the Chairman of the Law Commission, Shri B.P. Jeevan Reddy. Sir, I draw your attention to the second paragraph of the report, a most eloquent submission. The report says, "The Law Commission had taken up the aforesaid *sou motu.*" Sir, I underline the word *sou motu.* The Government did not seek the advice even. Our Ministers are having legal luminaries in their Cabinet. I know, there are legal luminaries in the Cabinet, but when the Government was on the point of enacting the law, it did not think it necessary and proper to consult the Law Commission even when the vital national interest was in question, and when we are treading into an uncharted field. Our agreement with the WTO is an uncharted field. When we are treading in an uncharted field, the Government did not think it necessary to get the advice — whether they accept it or not is not the point they did not think it necessary to get the opinion of the Law Commission. Therefore, the Law Commission undertook a study *suo motu,* not guided by the Government.

MR. CHAIRMAN: As a matter of fact, as a formality, the Leader of the House has asked you to move the Resolution. You move the Resolution, then continue your speech.

SHRI MD. SALIM (West Bengal): He is seeking some clarifications from the Minister.

MR. CHAIRMAN: No clarifications. ...*(Interruptions)*...

SHRI GURUDAS DAS GUPTA: Sir, I stand corrected. Sir, I move:

"That this House disapproves of the Patents (Amendment) Ordinance, 1999 (No. 3 of 1999) promulgated by the President on the 8th January, 1999."

SHRI SIKANDER BAKHT: Now, it is my turn to speak.

MR. CHAIRMAN: Let him complete first.

†[ ]Transilteration in Arabic Script

SHRI GURUDAS DAS GUPTA: Sir, the Law Commission had taken up the aforesaid subject *suo motu* in view of the fundamental importance of the provisions contained in the aforesaid Bill. Sir, I underline the words 'fundamental provisions', notwithstanding the fact that it has already been passed by Rajya Sabha. This unusual step, *i.e., suo motu* study, has been taken in view of certain significant ommissions in the Bill which impinge seriously upon our national interest. What more indictment can there be which impinges seriously upon our national interest? I look to this side, I look to that side to take into account this observation of the Law Commission.

SHRI MD. SALIM: Is this observation not for CPI and CPI(M)?

SHRI GURUDAS DAS GUPTA: No, I look to everybody.

SHRI MD. SALIM: Because we said the same thing earlier.

MR. CHAIRMAN: So, he is not looking towards you.

SHRI NILOTPAL BASU (West Bengal): He is clear about our position.

SHRI MD. SALIM: We heard the reply of the hon. Minister last time.

SHRI GURUDAS DAS GUPTA: Sir, chapter 1 of the report says, "Though article 27 of the TRIPS Agreement entitles a member State...

SHRI SIKANDER BAKHT: Sir, I just wanted to know whether the hon. Member is going to make detailed submissions in his opening statement. Will this be the only speech or after going through the Resolution of disapproval will he have another occasion to speak?

MR. CHAIRMAN: No, he will not have; the other Members will have. ...*(Interruptions)*... Please conclue.

SHRI GURUDAS DAS GUPTA: I wish my friend to be a little patient. ...*(Interruptions)*... I know he is a very patient man ...*(Interruptions)*... I know that. ...*(Interruptions)*...

SHRI SIKANDER BAKHT: After moving the resolution, the regular discussion should start. ...*(Interruptions)*... There was something amiss. That is why I pointed it out. ...*(Interruptions)*... In the beginning itself, he started referring to the Report of the Law Commission, ...*(Interruptions)*...

MR. CHAIRMAN: Now he is moving the resolution. ...*(Interruptions)*... When you will ask for moving your thing then the debate will start. ...*(Interruptions)*...

SHRI SIKANDER BAKHT: It is perfectly all right.

SHRI GURUDAS DAS GUPTA: Sir, I am quoting from that Report. It says, "Article 27 of the TRIPS entitles the member states to provide for certain exemptions. They have not been incorporated in the same Bill. This said omission impinges upon our national interest. The recommendations, therefore, may be considered by the Government and the Lok Sabha while debating the said Bill in the Budget Session." May I respectfully know whether this is a mandatory provision or not? Why was such an important comment made by the Law Commission held back from Parliament? Whose interests does it serve? Who can claim that after sometime, some sort of experimentation will not be found; and that whatever we have done does not go against our interests? This is an uncharted field you are entering into. Therefore, why does the Government claim monopoly of wisdom, monopoly of sagacity, monopoly of intellectual rights that whatever it says is all correct and whatever is stated by the Law Commission is incorrect? Therefore, Sir, this holding back is pernicious. This holding back is a dereliction of duty. This holding back is not transparent. This holding back is grave and constitutes a threat to the whole process of safeguarding our national interests. Sir, just to cut short and without going into

the details, I would say that many illuminating comments have been made in this Report; but I would refer to only five recommendations. Out of these five, not a single recommendation has been considered. Sir, the first recommendation refers to section 2 of the product patenting draft. The Report says, "It is sought to be introduced providing for product patenting in respect of medicines, and, drugs and such an application is to be dealt with in a manner provided in Chapter 4A." On page 17 it is stated, "In view of the commitment made in the WTO Accord, the Law Commission agrees that a provision like the same in the same proposed section 2 is very necessary. But,..." —there is a big 'but' — "at the same time, there appears to be no reason why India should not take advantage of that and incorporate the exemptions permitted in the TRIPS Agreement." We have not taken advantage of that, though the same is permitted under the TRIPS Agreement, which is detrimental to our national interests. Our national interests have been surrendered shamefully. To be precise, article 27(2) again on page 17, permits the member states to exclude from patentability, inventions, commercial exploitation of which is necessary to protect public order or morality, including protection of human, animal or plant life or health or to avoid serious prejudice to the environment. All this is there in the TRIPS Agreement Similarly, Clause (a) of sub-Article (3) of Article 27 enables the members to exclude from patentability, diagnostic, therepeutic and surgical methods for the treatment of humanbeings and animals. Clause (b) of the said sub-Article again enables the members to exclude from patentability, plants and animals, other than micro organisms, and essentially biological processes for the production of plants and animals other than non-biological, micro-biological processes. It would be appropriate to set out the entire article. The Government has been accused—those who drafted the present draft has been accused of not taking advantage of the exemptions already there in Section 27 of the TRIPS Agreement. What more eloquent condemnation can be there of the behaviour of the Government by the most leading luminaries of the country than this? Therefore, the first amendment suggested was like this. The suggestion is, "There is no reason why the proposed Bill should not contain provision in terms of the aforesaid provisions of the article? Accordingly, the Law Commission recommends that at the end of Sub-Section(2), a new proviso or explanation can be added to the following." They suggested that the present proviso which is there may be changed and this proviso should be there. It is, "....Provided that no patent will be granted under sub-Section (a), in respect of diagnostic, therapeutic and surgical methods for the treatment of humanbeings or animals. Sub-Section(b): "To inventions, the prevention of commercial exploitation of which is necessary to protect public order or morality, including the protection of human, animal or plant life or health or to avoid serious prejudice to the environment." Sir, this is a serious amendment which has been suggested. This has not even been considered. Let the Government reject it. But let there be an element of consideration. It is where the repsonsibility of the Government lies. I appeal to this section of the House to kindly consider the way the present Government has failed in discharging its elementary responsibility by refusing even to consider it. Important, fundamental amendments have been given by the Law Commission. Kindly consider it. Let us not fall in line with the BJP.

Now I will come to recommendation number 2. It is the second amendment. They are suggesting...

श्री रामदास अग्रवाल (राजस्थान): धीरे-धीरे बोलिए, पानी की ज़रूरत नहीं पड़ेगी।

SHRI GURUDAS DAS GUPTA: I thank you, my friend. I know that I have many friends on that side too.

श्री मोहम्मद सलीम: आप समझते हैं कि अपने गले से आप सुनवाएंगे लेकिन वह डिपेंड करता है उनके कानों पर भी।

†[श्री मोहम्मद सलीम: आप समझते हैं कि अपने गले से आप सुनवाएंगे लेकिन वह डिपेंड करता है उनके कानों पर भी।]

SHRI GURUDAS DAS GUPTA: The second amendment they have suggested like this. The Patents (Amendment) Ordinance, 1999, issued on January 8, 1999, contains the following explanation. The Law Commission wants it to be replaced by another explanation. What is that? It is, "It is hereby clarified that, for the purpose of this section, the exclusive right to sell or distribute any article or substance under this section, shall not include an article or substance based on the Indian System of Medicine." The present Ordinance contains this. But the Law Commission suggested some additional words. They said, along with the earlier words, "... or any article, substance or method indigenously used or intended to be used for the treatment." It is not only the Indian System of Medicine but which we are using indigenously or intend to use indigenously.

It is a vital point which has also been rejected. How, I come to the Fourth amendment. I am not taking the third amendment. The fourth amendment is about the revocation of a patent. It is necessary to amend section 64 which provides for revocation of patents on certain specified grounds. It is necessary to provide an additional ground for revocation. They think, some additional ground for revocation should be incorporated. What is that? Accordingly, it is recommended that, after clause (0) in sub-section (1) of section 64, the following clause shall be inserted: "That the patent granted is prejudicial to the security of the State or has been granted in contravention of the provisions of the Act." It is not there. We can refuse patentating on these grounds. Why should it not be there? Why should it be left to the sweet will of the WTO to decide as to which patent should be granted? Why should not the Government of India arm itself with these exclusive powers, capacity, jurisdiction? You say 'no' in the case of those medicines which we use indigenously, or, which we propose to use indigenously. Why are we bending our back to meet the demands of those who are running the WTO?

Sir, now I come to the last amendment. I quote, "Hence it is recommended that in Section 34, after the words 'as it accords to its own nationals' and before the words 'no national of such country', the words 'or prevents or withholds access to any patented invention, whether product or process in any field of technology, by means of unilateral export prohibition, whether on the grounds of security or otherwise' be inserted. I do not know whose flag they are carrying...*(Interruptions)*...

SHRI MD. SALIM: It is *swadeshi*, They are guided by *swadeshi...(Interruptions)*...

SHRI GURUDAS DAS GUPTA: I do not know if it is *swadeshi...(Interruptions)*... Sir, the basic point is that we have to fulfil the obligations to the W.T.O. because an agreement had been signed by the previous Government. But we were not in power when that agreement was signed. According to that agreement, which had been signed, we have to fulfil further obligations. Okay, let us do it. We do not stand in the way. But should it be done in a slip-shod way? Should it be done in a hush-hush way? Should it be done in a secretive way? Should it be done without proper consultations? Should it be done without taking the Parliament into confidence regarding the suggestions, given by the highest legal

†[ ]Transilteration in Arabic Script

body of the country? It is not a question of the method. I am not harping on the method. I am harping on the contents. The content is that, without discussing the amendments put forwarded by the Law Commission, we have opened our flanks. You have made yourself vulnerable to the charge of being too soft to the W.T.O. You have made yourself vulnerable to the acquisition that you fell a victim to the world-wide pressure, being mounted by a number of developed countries. You are bending your back. You have made yourself vulnerable even to the pressure within your own party. You make yourself vulnerable to this Parliament because we do not know as to why such an information was withheld from Parliament. Thirdly, Sir, you will agree with me, who have been negotiating for India with the W.T.O.? Who are those persons? May, I, frankly suggest ...(*Interruptions*)... Sir, most reluctantly, may I suggest, who have been negotiating for India in W.T.O. for agreement? Sir, the main negotiator I cannot name him—who negotiated for India in the Uruguay Round of Talks, where is the today? Where is that gentlemen who wa the chief negotiator, who was the official? He has not taken care of the interests of the country, but he has taken care of his own interest. He is now an important official of W.T.O. because he has surrendered our interests and also surrendered to the pressure of W.T.O. ...(*Interruptions*)...

श्री संजय निरूपम (महाराष्ट्र): नाम बताइए, कौन है। ...(व्यवधान)...

SHRI GURUDAS DAS GUPTA: I will give. Sir, the Joint Secretary, who was looking after the Patents law at that point of time where is he now? He is now again in W.I.P.O. He is holding a most lucrative post. ...(*Interruptions*)... Where is the Director of Industries, who, at that time, was taking part in the discussions. He is now again in W.I.P.O. Mr. Huda was the chief negotiator. He is now occupying an important position. Mr. Sabharwal is also having an important position. Mr. Jaya is also in an important position. Sir, it gives rise to a serious suspicion that the officials who have been talking for India had not been talking for their country's interests, but had been talking about their own interests. Sir, this is a serious situation. Therefore, I believe that the interest of the country has been surrendered. We had given up to the pressure, and the advantage that we can even take by revoking the provisions of the TRIPS Agreement has not been done. A vital information has been held back. Parliament was not allowed to know what is there in the minds of the legal luminaries. Therefore, it is a double tragedy. One tragedy is that it has surrendered India's interest and the other tragedy is an attempt to cover it up. It is a double tragedy. Sir, I beg this House, I beg my friends, on my left and on my right, to take a decision on this issue on merit. Let us postpone the issue. I implore upon the Government, let us postpone this discussion today. Let us go to a Committee. Let us look into the guidelines submitted by the Law Commission. Let us take a little time. Why should we be in hurry? There is still some time. Let there be a special session of the Parliament. We are ready to come within the time limit. We will sit again. Let the report of the Law Commission be circulated. Let us know their mind. If necessary, let us talk to other luminaries. Why is the Government taking such a decision this further and no further, today or never. Why should this sword be hanging on us? You can either agree or disagree with me. Why cannot there be a little more pause, a little more discussion? Let there be a debate, not an infructuous debate, but a meaningful one on the basis of all the facts submitted by the Government. Therefore, Sir, I implore for a postponement. I request the Congress Party that we should be united. Its Members had walked out along with our Members in the other House. Let us not divide ourselves. We opposed the Bill. Let us not divide ourselves when there is an act of national

betrayal, as is being suggested by the Law Commission, not by us. Let there be a pause. Let there be a pondering. Let there be a little reflection. Posterity is not going to forgive us for the act of betrayal that we will be doing collectively. Whether we agree or not on this, let there be a pause. Let there be an intermission. Let there be a discussion. We are ready for a discussion. We are not enemies. Let there be a discussion. I implore for a postponement. Let there be a postponement.

In the meantime, the hon. transparent Minister of Industry may kindly share with the country all the relevant truth, including the Report that has been submitted.

With these words, Sir, I end with a heavy heart, and I seek your kind permission to lay this Report on the Table of the House.

MR. CHAIRMAN: That need not be done.

That cannot be done. The Resolution has been moved.

Now, Mr. Sikander Bakht to move the amendments.

SHRI NILOTPAL BASU: The Report must be laid, Sir.

MR. CHAIRMAN: No, no, it cannot be laid. According to the ruling by the Chairman, given already, it cannot be laid.

SHRI NILOTPAL BASU: Just one minute, Sir. He has quoted extensively from the Report. ...*(Interruptions)*...

We will not be having the privilege of sharing the entire Report.

MR. CHAIRMAN: No, no. It is all right ...*(Interruptions)*... Mr. Sikander Bakht, please speak.

SHRI NILOTPAL BASU: A question of privilege is there.

MR. CHAIRMAN: No privilege. No privilege is involved.

SHRI MD. SALIM: This is not a question of a private document. It is the Law Commission's document. You have allowed the Member to quote from that report. It is not just a report. It is particularly related to the question of the failure of the Government to take note of the Report of the statutory body to take care of the country's interests.

MR. CHAIRMAN: Please sit down. I am reading from Kaul and Shakdher from page 876.

> "The Speaker observed that he could not allow an official document to be laid on the Table of the House by a Private Member."

SHRI GURUDAS DAS GUPTA: May I submit, Sir?

MR. CHAIRMAN: No. As a matter of fact, this is a public document. ...*(Interruptions)*... No, please. ...*(Interruptions)*...

SHRI GURUDAS DAS GUPTA: I am on a point of order. ...*(Interruptions)*...

MR. CHAIRMAN: No point of order. ...*(Interruptions)*...

SHRI MD. SALIM: The Government is in a hurry. The Chair should not be in a hurry. ...*(Interruptions)*...

SHRI NILOTPAL BASU: It should be shared by the House, Sir. ...*(Interruptions)*...

SHRI MD. SALIM: The Government may be in a great hurry. There is a specific charge. The Chair should not be part of it. ...*(Interruptions)*...

MR. CHAIRMAN: I have given the ruling. No more. I have given the ruling.

Now, hon. Minister, please move the amendments. ...*(Interruptions)*...

Let him reply. Let him move them.

Mr. Sikander Bakht. ...*(Interruptions)*...

SHRI SIKANDER BAKHT: I beg to move that the following amendments made by the Lok Sabha in the Patents (Amendment) Bill, 1998, be taken into consideration.

अगर मुझ को बोलने का मौका देंगे तो मैं बोल सकता हूं। (व्यवधान)

†[شری سکندر بخت: مجھکو بولنے کا موقع دینگے تو میں بول سکتا ہوں۔ مداخلت]

श्री सभापति: बोलिये।

श्री सिकन्दर बख्त: मैंने बिल को मूव कर दिया है। बोलने का मौका देंगे तो मैं बोलूंगा। (व्यवधान)

†[شری سکندر بخت: میں نے بل کو موو کر دیا ہے۔ بولنے کا موقع دینگے تو میں بولونگا [....

I have moved it, Sir...

श्री सभापति: आप सारा पढ़िये। (व्यवधान)

SHRI SIKANDER BAKHT: I have moved that the Bill be taken into consideration. I have moved this, and I have to make a small submission provided this rumpus stops.

I have moved that the Bill be taken into consideration. ...(*Interruptions*)...

श्री सभापति: सारा पढ़ना पड़ेगा। (व्यवधान)

Hon. Members, please sit down.

SHRI SIKANDER BAKHT: Sir, I move:

"That the following Amendments made by the Lok Sabha in the Patents (Amendment) Bill, 1998, be taken into consideration, namely:

"ENACTING FORMULA"

1. That at page 1, line 1, *for* "Forty-ninth" *substitute* "Fiftieth".

CLAUSE 1

2. That at page 1, line 3, *for* "1998" *substitute* "1999".

CLAUSE 9

3. That at page 4, *for* line 31 to 39, *substitute*—

Repeal and saving.

Ord. 3 of 1999

"9.(1) That Patents (Amendment) Ordinance 1999, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Principal Act, as amended by the Patents (Amendment) Ordinance, 1994, which ceased to operate, or under the Patents (Amendment) Ordinance, 1999, shall be deemed to have been done or taken under the corresponding provisions of the Principal Act as amended by this Act.

Ord. 13 of 1994

Ord. 3 of 1999

(3) All applications made in respect of claims for patent of invention specified under sub-section (2) of section 5 of the principal Act, from the date of ceaser of the Patents (Amendment) Ordinance, 1994 till the date on which this Act receives the

†[ ]Transilteration in Arabic Script

assent of the President (both days inclusive) shall be deemed to have been validly made as if the provisions of the principal Act, as amended by this Act, had been in force at all material times."

The questions were proposed.
(Interruptions)

MR. CHAIRMAN: Nothing will go on record.

Mr. Vayalar Ravi, you have to speak on this. It is your turn.

SHRI VAYALAR RAVI (Kerala): I am not speaking, Sir.

DR. BIPLAB DASGUPTA (West Bengal): Sir, the issue that has been raised has serious implications for national interest.

SHRI M. VENKAIAH NAIDU (Karnataka): Mr. Chirman, Sir, I am on a point of order. It is a submission to you.

MR. CHAIRMAN: Let him speak. No interference please. Dr. Biplab Dasgupta.

SHRI M. VENKAIAH NAIDU: I am not interfering. I am only bringing it to your notice that when the Leader of the House was speaking, there was disorder....*(Interruptions)*

MR. CHAIRMAN: Let Dr. Biplab Dasgupta be allowed to speak now.

DR. BIPLAB DASGUPTA: Sir, we are extremely worried about the Bill. This Bill has serious implications about our country's future prospects for development. It takes away our option for independent technological growth. Moreover, this Bill will make us perpetually dependent on the foreign multi-nationals for years and years to come.

Sir, the Bill was passed in the Rajya Sabha on 23rd of December last year. On the last day of the last session it was supposed to be put before Lok Sabha. But, it was not put before the Lok Sabha. Nor was the Lok Sabha session extended to consider it there. We just to not know what happend to it. Why did not Government after getting the Bill passed in the Rajya Sabha refrain from doing so in the Lok Sabha? Was it because the Government had a change of mind? Was it because there was internal dissension within the ruling party, so much so that they could not take the risk of tabling it before that House? I think the Government needs to explain the situation to us as to what prevented it from getting the Bill passed in the Lok Sabha on the last day of the last session. The Government also has to explain why after the Government failed to pass the Bill in the Lok Sabha, it did not refer it to a Committee. Sir, the last session ended on 23rd December. Now, we are discussing it on 13th of March. Almost three months were there. These three months could have been fruitfully used for clause-by-clause examination of the Bill by the Committee. Sir, this Bill could be referred to the Standing Committee of Parliament on Industries. That Committee could have called experts, who could have given their opinion there. And on that basis the Parliament could have had an informed opinion about the various clauses of the Bill. Why was the option of sending it to the Standing Committee of Parliament not taken and why was it given the shape of an ordinance. There was a real need of sending it to the Standing Committee of Parliament.

Sir, we have been insisting on the setting up a committee. This is a very important Bill. No Bill of equal important has come before the House for

the last five years. This is the most important Bill which has come before the House during the last five years. But this Bill is not something which is immediately understood by the people. It is not like rising prices. It is not like unemployment. It is not like the closing down of a factory. People don't understand the implication of the Bill. The Bill is loaded with economic jargon teachnical jargon, scienctific jargon and also legal jargon. It is very difficult to penetrate through the cover of the jargon and also to understand what the Bill is talking about. This is a kind of Bill which requires to be studied by a Committee. This is why we have been insisting on the Government to refer it to a committee, but they did not agree even though on 23rd December, they failed to get it passed by the Lok Sabha. The Government needs to explain it to us. Why is the Government not subjecting it to as proper scrutiny? Why is the Government shying away from a national debate? This Bill has serious implications for the future of our country's development prospects. I have a feeling that the Government does not want the people to understand the implications of the Bill which is why it is not setting up a committee, which is why it is not prepared to initiate a national debate on the issue. On the other hand, the people who have studied the Bill; what are their recommendations? For example, the Research and Information System Institute, RISI, is a part of the Government structure. I think it is a part of Ministry of foreign affairs. Recently, that Institute had convened a conference on patents wherein experts from all over the world, experts form all over India, participated. At the end, they prepared a list of recommendations. Has the Government studied these recommendations? These recommendations point out that this Bill and two or three other subsequent Bills would strike at the very root of the economic integrity of the country and these should be opposed. These are the recommendations by the experts. They have nothing to do with politics. People who are experts on the subject of patents have gone, through them, including our Indian counterparts. They have come to the conclusion, "It is bad for India."

For example, the Reserach foundation which is located in Dehradun is headed by Ms. Vendana Shiva. She is a scientist. She has been working on the issue of patents and plant varieties for a long, long time. She is highly respected all over the country, all over the world. Ms. Vendana Shiva has come out with a series of statements saying that "this Bill is injurious to the national interests. This Bill is unconstitutional and something should be done so that this Bill and the subsequent Bills which are going to be proposed on bio-diversity are subjected to a critical scrutiny."

Then, you have a National Working Group on Patents. This Group consists of many luminaries, including the former Chairman, of the University Grants Commission, including some one called Dr. Murli Manohar Joshi, who is something more than academician. They came out with the conclusion that this Patents Bill is injurious to India.

Then, you have this Law Commission's report. None of these people are politically involved. They are not in the business of politics. All of them are experts on the subject of patents. They have come out with the same recommendation that this Bill is inconsistent with India's interests, inconsistent with India's Constitution. Shouldn't you look into that opinion? You are shying away from the debate. You are hiding information. You are refusing to consult the opinion of the people who matter most and who understand these things. The Government is deliberatly suppressing the facts. The Government is ensuring that there is no national debate so that the people do not have access to the information, people who do not understnad the obscure language would

be supporting this. Why is this hush-hush business? This is a point which our beloved Minister should share with us. What is the justification for the Government to rush through this Bill? What is the justificaton for the Government to adopt a secretive attitude on this particular issue when this is such an importnat Bill, when so many experts outside the field of politics have come out with this kind of an opinion?

What is the justification for this Bill? I will come to the safeguards later, as to what the safeguards are, which should have been there in the Bill, and which are not in the Bill. I would even say later why, on this issue, we should follow the Americans. The Americans, in the pursuit of their own national interest, have the laws which protect their country against this kind of a law. Why don't you follow the Americans on this issue? I will come back to that later. But there are two types of agruments given in favour of the Bill, two types of agruments which are contradictory to each other. One type of argument is that India is a great country. India is a big coutry, we are not afraid of anybody, we have a lot of human talent, we can have our own Patents, why should we be afraid of the Patents law? This is one type of argument. Another type of argument is just the opposite. We are a very weak country, we are a poor country, we cannot fight with the Americans, the W.T.O. has already decided on this issue, we will have to accept whatever is there, we have to accept the *fait accompli*. So, these two type of arguments are there. One argument is full of rhetoric about the national dignity and all that. The other argument is pleading about the external compulsion. These two arguments do not fit in together. You have to choose one of the arguments, not both. But they are trying to use both the arguments at one point or the other. As far as the first point is concerned, that we are a big country and all that; certainly, we are a big country. We have talent, we can become one of the most developed countries in the world. But the fact remains that in terms of *per capita* income, today we are among the 20 poorest countries in the world. Only five countries in Asia are poorer than us; that is, Bangladesh, Nepal, Bhutan, Burma and Laos. All the other countries, including Sri Lanka and Pakistan, are ahead of us, as far as *per capita* income is concerned. If we take aggregate GDP, and not the *per capita* income, the aggregate income of the country, and with a small economy compare it with South Korea or Taiwan which are much smaller countries. We have a population of something like 100 crores. Their population is three crores or four crores. But their GDP is much larger than India. Their GDP is 50 per cent more than that of India. Even countries like Hong Kong and Singapore have GDP which is almost half the GDP of a country as big as India. The economic size of the economy is determined in terms of aggregate GDP. Dr. Manmohan Singh knows about it. We are among the poorest countries in the world and in terms of the share of the world trade, our share is less than half per cent of the total world trade. So, we are not a very strong country. We are a weak country. We cannot do anything on our own. We have to build alliances. I will come to that point later. But the second agrument is that we have no choice. I don't agree with that idea; what is the danger? Supposing, we do not meet the 19th April deadline; supposing, the 19th April deadline passes and we are unable to legislate on this issue, what will happen? Firstly, the W.T.O. cannot expel us from its membership. That is not possible because, for expulsion, they have to follow different procedure. Just because we have not been able to incorporate the Exclusive Marketing Rights in our law, that would not disqualify us from the membership. So, the whole idea that if we do not get it passed by the 19th April, we are going to be thrown out of the W.T.O. is a myth. There is absolutely no basis for it because there is no provision in the W.T.O. to

link it up with our membership, because our decision to allow the Ordinance to lapse was subsequent to our getting the membership. So, they cannot throw us out technically. Secondly, Yes, they can impose economic penalties, they can impose economic sanctions. They can do it. Will they do it? On the question of Pokhran tests, we have seen that the economic sanctions were declared but they were not taken up seriously. Those sanctions have not affected our economy. The United States of America is also scared of imposing the penalty. Why? It is because of the fact that there are other competitors. If the Americans decide to penalise us, if they initiate that action from 20th of April, that is, immediately after the 19th April deadline passes, they have to go through some procedure which is given in the W.T.O's disputes settlement machinery. Even if they follow that procedure, still they will require four, five months to complete it. We have very good lawyers in the House. Mr. Kapil Sibal is there Mr. Ram Jethmalani is there. They can drag the case on for one or two years. That is not difficult. Every country does it. We can also do it. So, that is immediately not something to be afraid of. Moreover, there are other countries waiting in the wings. If the Americans withdraw from our market, Italy will be interested, Holland will be interested, France will be interested. Even Germany will be interested. They might come in. It is the fear of this competition which is restraining the Americans from taking any action against us, even on Super-301. There had been many occasions, when they had put India on the hit list of Super-301. They did not impose it because they knew that if they did so and withdraw from the Indian market, there would be others waiting to take their place. Let us not approach the Americans or this World Trade Organisation with folded hands, with bent knees; that is not going to help. Have a sense of *maryada,* instead of your rhetoric or even my rhetoric, have a sense of *maryada,* for the country, have a sense of pride. Don't approach either the W.T.O. or that Government with folded hands. That is not going to help. I will come later to the question what should have been done.

I tell you as to why I think the Patent Bill is so dangerous. Number one, 80per cent of the patents in the world are held by the Western multinational companies and these 80 per cent are the more important ones. Under the TRIPs Agreement, which was signed in April 1994 in Marrakesh, the patent right will remain for 20 years. There was a ground for revising the period of patenting right, revising it downwards, not upwards. The patenting period should have been reduced to four or five years. We know, computers become obsolete within four or five years, software packages become obsolete withing two years. And think of the other inventions. How long did it take for a black-and-white TV to be replaced by a colour TV? The colour TV was added later to VCR, and then the cable TV, and so on, and ultimately coming to the personal digital system or multi-media, each change took hardly four or five years' time to come. Why do they make it 20 years? Because, once they make it 20 years, their domination becomes perpetual; nobody can get out of technological dependence on them because by the time the Patent right on it expires, after 20 years, nobody would be interested in that product. By that time, these companies, through the enormous amounts they would have spent on research and developments, would themselves produce another new product that would take over the market from the earlier one. Sir, for that reason, once we sign this particular Bill, or once you get this bill passed, and we accept our dependence on those companies and the dominance of those companies for 20 years, it means their dominance would be perpetuated for ever.

The main component of the Bill is the Exclusive Marketing Rights. What does it mean? It means, if any forign company

comes to India and says that it has got it patent already in some other country immediately it gets the Exclusive Marketing Rights in India for five years, from now onwards till the year 2005. It is the transitional rule that does not permit the Indian Authorities to examine the patent application and come to a conclusion or a particular decision on this. What does the provision of Exclusive Marketing Rights mean? What is going to happen during the period from 1999 to 2005. Take a product of which we are very proud in India, *Basmati. Basmati* is produced in Kasmhir and Punjab. It is also produced in Pakistan. India and Pakistan are the countries which are the natural habitats of *Basmati,* and the variety of *Basmati* has not evolved just like that but with small and small additions of hundred of years' made by individual communities, they have come to this stage. After the 1994 Marrakesh Agreement was signed, the multinational companies working in agro business came to our country, and they had gone to other countries, collected some species of *Basmati,* took them to their country, tinkered with it and patented the *Basmati.* First, they called it "Texmati" that is *Basmati* of Texas.

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Then they described it as Kasmati. Basmati of Kashmir. It is now being called Basmati. So, the product called basmati is now being owned by a company called RiceTec, which is rooted in Texas. If we pass this Bil, if this Bill is passed to give the Exclusive Marketing Rights, then the RiceTec Company will take over the marketing of basmati in India. they have already done it in the rest of the world, and they can do it in India also as soon as the bill is passed. So, the Indian basmati is going to be pushed out of the Indian market because it is owned by a Texas Company which has already patented basmati.

Neem, which is very much a part of our indigenous knowledge; our indigenous technology, and which is an important part of our folklore, has now been patented by 40 foreign companies. Indeed patenting of neem has been undertaken in many countries like America and Britain and so on.

The effect of the Exclusive Marketing Rights will be that our own products which have been a part of our folklore, our culture; and form a part of our indigenous knowledge, will now become the property of those multi-national companies specialising in agro-business. And our companies will be thrown out of our own markets, as soon as the Exclusive Marketing Rights provision is accepted.

Sir, I would like to make one point about the TRIPs Agreement. What is this agreement? Until now, every country in the world-maybe, excepting the United Kingdom, because they were the first to initiate industrial revolution, every other country in the world had copied technology from other countries. You may call it piracy. what is piracy? Piracy can only be defined in terms of the law of a country. If the law of the country does not describe copying of technology by a company as piracy, then, according to me, it is not piracy. But the fact is that each and every country in the world has developed economically, through foreign technology, because technology is the key to development. Untill now every country has copied the technology of the other countries. One of the examples is Japan. In 1945, when Japan surrendered, all their towns were razed to the ground. All their factories were reduced to rubbles. they had no mines; they had no plantations. Japan was poor in natural resources. The only thing they had was some efficient and sophisticated manpower. What did they do? suppose they imported a machine from Germany. As soon as the machine landed at their port, they took that, identified the parts and then distributed those to different experts. And through this process called 'reverse engineering'; they reconstructed

the whole machine. so, there was a saying in the world economy in those days, 'It is no fun trading with Japan because Japan will purchase only one machine and then they will copy it. By copying the foreign technology, Japan became what it is today. They copied the technology for 15 years, and they improvised by using their own material. Now, the rest of the world is copying them because they had absorbed the foreign technology and then developed their own. Today they are more successful than USA in electronics, automobiles etc. Japan's technology is now being copies by others countries like South Korea, Taiwan, Hongkong and Singapore followed the same tradition of copying the technology of other countries. The TRIPs Agreement would not allow this any more. So, the option that was available to all the developed countries of the world in the course of their development, today, would no longer be available to us as soon as the TRIPs Agreement was signed. Should we not do something about it?

Some say, why do we fear companies? There are so many companies. If some multi-national companies come, what will happen? They have no idea as to how big these companies are. Some of these companies have an annual turnover that is almost as big as the GDP of a country like India. These companies have their tentacles spread throughout the world. Our own Birlas, Tatas and Ambanis are pigmies, when compared to these giant. They have resources, they have manpower and there is concentration of skill. In all these they are far more superior to many of the countries of the world, including India. So, these companies, if they come into the market, even if you have the same uniform set of rules, it is not going to be possible for you to win the contest. As Gandhiji once said: 'There cannot be inequality between the giant and the dwarf.' Whenever there is a competition between a giant and a dwarf, even if the rules are the same, the giant will always win. This is the position that we are facing today. If the multinational companies, who are given a clean chit, are allowed to come to our country freely with their patents, with their monopoly over the technology, they will completely destroy the Indian industries, whatever industries are there in this country. Some of the Indian industries will become their comrades. I know this. Some of the Indian industries would become dependent on them and would be pleasing them. But no indigenous industrial development would be possible, if the control over patents, if the control over technology, is taken away from our country.

Now what could be the safeguard? My regret is this. The Government even did not use fully the provisions which are there in the TRIPs. Yesterday, I have some amendments to the Secretariat about what should have been done. I did not read the Law Commission Report. I got the Law Commission Report this morning just like a few others. But even when thinking independently some of the same points come up. My amendments are there. You can see them. They are similar. Anybody who studies the subject will come to a similar conclusion. Anybody who looks into the details of the Patents bill will always come to the same conclusion. What are there in my amendments? First one is that there are provisions in the TRIPs Agreement which have not been really taken advantage of. It has been mentioned by Shri Gurudas Das Gupta also. In the TRIPS Agreement under article 27.2 and article 27.3 it is categorically stated that it is possible for a country to refuse patent or declare a particular subject as non-patentable, for example, if such patent rights are in conflict with public order, or morality, or the need to protect human, animal or plant life or environment. Why do you not do it? If you incorporate this provision into this Bill, you can judge each and every application according to this. If you do that, it is possible to safeguard the national interests. We said this on the 26th of December when this

was discussed. Mr. Kapil Sibal mentioned that there were safeguards in the TRIPS. He had mentioned these particular safeguards. Then I asked him, "If this safeguard is there in the TRIPS, why do we not incorporate them into the law?" So, whatever is possible within the framework of TRIPS was not done. You did not incorporate in our own law, in our domestic law, what was available under the TRIPS. There is another provision. If the patent rights are related to diagnostic, therapeutic and surgical methods for the treatment of humans and animals, plants and animals and biological processes for their production, you can say that you would not make them patentable. There are provisions in the TRIPS Agreement which could have protected our industry, which could have protected our plant varieties, which could have protected our indigenous efforts in other directions. The Government has not done even what the TRIPS Agreement itself wants. Apart from the fact that the TRIPS Agreement is bad, even what is available within the bad Agreement in terms of protecting our economy was not taken advantage of. That was not done. So, these two important provisions in the TRIPS Agreement were completely ignored. I have a suspicion. By the end of this year this particular article in the TRIPS Agreement, article 27, is coming for discussion or for a review in the Ministerial meeting. I hope the Minister will throw some light on this. There is an attempt by the Americans to delete these two provisions. The Americans want to get rid of them. We are co-operating with the Americans by not incorporating these two provisions in our Act. We are helping them. I do not know whether Jaswantji or Sikander Bakhtji is going to attend the Ministerial meeting. By the time you sit with your counterparts in the discussions on TRIPS you would have already surrendered. You are allowing the Americans to have a cake-walk through our body because the Americans would try to delete these two provisions when the inter-ministerial conference takes place. By not adding these to the amendments here you are actually creating a ground for their omission towards the end of the year.

Then comes the question of reciprocity which has also been mentioned by the Law Commission Report. The Law Commission report also says somewhat differently, "Why don't you do what the Americans are doing?" for example, in America they do not allow any international law to be signed which is inconsistent with their domestic law. When this GATT discussion was going on there was a question: How do you settle the dispute? Supposing there is a certain dispute between India and America, how do you settle the dispute? One of the arguments given during the GATT negotiation was this. The days of unilateral action and bilateral action have gone. Now everything will be multilateral. Whatever the dispute that one has on trade-related matters, that should be taken to the WTO dispute settlement machinery and that dispute settlement machinery will work out the procedure and on that basis the decision will be taken. That was the idea. What do we find today? Despite the provisions for dispute settlement in the WTO, the Americans have said it categorically that their unilateral machinery will continue. They will continue their Super 301. It means that they will decide, not the GATT and not any multilateral agency, whether any particular country has discriminated against the American capital or not. They have taken this power in their own hands. They are not allowing this power to be taken away by any international body. Recently the Super 301, that is, section 301 of the US Trade Act, which allows the American Government to taken action against any country which is discriminating against any American company had expired and it has been renewed. It means though the Americans want to ask us to respect the GATT and the WTO they do not themselves want to respect GATT and WTO.

(Interruptions)...Sikander Bakhtji, I want to address my speech to you. Sir, can I have the attention of the Minister?

MR. CHAIRMAN: Mr Leader of the House, he wants your attention.

SHRI GOPALSINGH G. SOLANKI (Gujarat): You address the Chair.

DR. BIPLAB DASGUPTA: I am addressing him through the Chair.

What I was suggesting was a very specific amendment. Where such patent rights are being sought by a foreign company, whose Government fails to adhere to a multilateral machinery for dispute settlement as provided by the WTO--I am recognising the WTO--and whose law allows for unilateral action against other countries for redressing their trade-related grievances, even when it is at variance with the WTO prescribed rules, such laws allowing patent rights would not be acceptable to India. If the Americans use Super 301 unilateral action, we would not accept any American company to come in and patent its products in our country. Why cannot we incorporate it? I will give another example. Now there is a lot of discrimination against the Indian exports in many ways, for example, in terms of quotas, in terms of labour standards, in terms of environment standards. They are finding all kinds of ways not to allow Indian exports to America. Why don't you have an amendment saying that if any country is discriminating against India exports, the companies of that country will not get patent rights automatically. I am not saying anything which is not being done by the Americans. The Americans do it. We should also do it. If the Americans taken action against companies which descriminate against their companies, why can't we have a law in our country which will also allow us to take action against that country, or their exports? So, I would suggest here a specific amendment, where the foreign company belongs to a country, which discriminates against Indian exports by way of quota or in the name of protecting labour standards or by way of eco-levelling—I will come to eco-levelling latter — where the Indian exports are concerned or the Government of India had not been consulted before prescribing such standards, there patent rights should not be accepted. Now, what is eco-levelling? The main idea is to keep Indian exports away. They have this mark or stamp; that this particular product eco-friendly. Anything which is described as not eco–friendly, the consumers are told not to buy that thing. They are told that this is bad. Now, how do you decide about it? How do you decide about what is eco-friendly. The specifications for this will be decided by the American, companies. What should be the specification for deciding about eco-friendliness? My question is this. If the Americans discriminate against our exports in the name of environment, labour standards, why can't we refuse to give automate patent rights to the American companies in India? There should be some reciprocity. If we have any concept of Swadeshi, any concept of maryada, any concept of dignity or self-respect, the least we can do is to reciprocate. If the American companies don't give you the right, you also don't give the American

(The Deputy Chairman *in the Chair*)

companies those rights. Can't we have something like this? Then I would suggest another amendment which is very important. This relates to bio-piracy. I have already mentioned that many American and other companies have been coming to India. What do they do? They pick up our germ plasm, genetic material, go back to their country, then make some product and all that. After all this, they bring it out as their own product and patent it. Can't we have any law to prevent this? One is this. Whenever a company applies for patenting or anything which involves biotechnology or genetic engineering, number one, they should disclose the origin of the genetic material. Number two, the company

should also disclose whether it has respected the laws of the country where-from the genetic material has been imported. If you have some safeguards, then this sort of thing will not happen. Our own goods cannot be imposed upon us, as patented by a foreign company. If we force each and every company to disclose the information about the origin of the genetic material, laws of that country relating to exports, then all this can be avoided. Then I would suggest two more points. One is this. When you have to fight in the American court, the difficulty you face is, the American courts accept only the published material. If there is a Ph.d. thesis or a technical...

THE DEPUTY CHAIRMAN: Mr. Dasgupta, for how much more time you will speak?

DR. BIPLAB DASGUPTA: Another ten minutes, Madam. Almost two-three points left.

THE DEPUTY CHAIRMAN: You can have four more points. You started at 11.40. Your party time is 16 minutes.

AN HON. MEMBER:...*(Interruptions)*. Today, he is the only speaker.

THE DEPUTY CHAIRMAN: You are withdrawing everybody's name I am very happy.

DR. BIPLAB DASGUPTA: Madam, one of the difficulties which we are facing is this. When issue like *neem, haldi* or *basmati* come, when this matter reaches even the America Courts, one difficulty is that the American Courts will only go by published documents; they will only go by professional papers. Now, where is the professional paper on *neem* in India? Now, if we can prove that a particular case for patent is unsubstaianted because it is a part of the folklore or it is based on indigenous knowledge, the American Courts can't do anything because they cannot accept folklores, they cannot accept indigenous knowledge in other forms. In our country, plant varieties have been developed for many, many years. But the process by which that was done was not written down. It is handed down from generation to generation by the tradition of *Sruti*. Whenever we go to American Courts, we find this difficulty; it is difficult to prove that it is a part of the indigenous knowledge, that the companies concerned are not producing something which is new. It is very, very difficult to prove this. In this case, on the principle of reciprocity, we can say, "in case the foreign company concerned belongs to a country whose courts, while establishing what is or what is not an invention, only go by published documents and they refuse to recognise folklore and practices handed down from one generation to another by word of mouth as confirming the existence of indigenous knowledge of medicinal and other qualities and varied uses and practices relating to plants and animals, we have to be permitted." If we have this provision, then we can guarantee that our materials cannot be taken away; what has been a part of the indigenous knowledge like *neem* or *haldi* cannot be taken away. As far as the safeguards are concerned, one of the points which we have to put in, but which is very much inconsistent with the conventional biodiversity, is this. It is very funny. We have signed the Convention on Biodiversity along with to countries. We have signed the TRIPS Agreement along with 50 countries. And these two international documents, both of which many countries have signed are in conflict with each other. For example, the convention on biodiversity recognises the rights of a community, whether the community has a right over a particular variety or not. What I am suggesting is that there should be a provision in the Act that in case the patent right secured in another country is in conflict with the customary right over the products in question being enjoyed by one or more village communities for more than 100 years, then that should be recognised, and this customary right enjoyed by the communities should be recognised in the Act itself.

Madam, lastly, I will make very quick points about what is going to happen towards the end of this year. This article 27 is coming for global review. What is the position of the Government on this particular issue? In the next year, the entire TRIPS Agreement is coming for review. Now, has the Minister of Industries or the Minister of Commerce or the Minister of Foreign Affairs taken any initiative to mobilise the opinion of the Third World countries, countries like South Asia, South-East Asia, China and Brazil, so that we can put up a common front and rectify at least partly some of the injustices which have been done to poor countries during the negotiations on Dunkel during 1994 and 1995? Has the Government got the political will to fight in the world fora? You cannot fight in the world fora alone. India is not strong. But, certainly, in co-operation with other countries, we can make an effort to make these changes. But my feeling is that the Government has lost the political will to fight. We are no longer in the days of the 1950s when under Pandit Nehru, we did take initiatives in international fora on the question of non-aligned movement. I would suggest to the Minister that he, along with other countries, should prepare himself for the negotiations, and for this, there has to be a lot of homework done...

THE DEPUTY CHAIRMAN: You have taken 42 minutes.

DR. BIPLAB DASGUPTA: I will finish in two minutes.

When Carla Hill went for GATT negotiations on behalf of the United States, she brought with her 400 doctorates and specialists in various things.

Along with them, there were another 400 experts from various multinational companies. We did not have such involvement. Moreover, the entire dialogue was between Europe, the United States and Japan and we were never consulted. The poor countries were totally ignored and the agreement furthered the interests of only the rich countries. So, now that we are getting an opportunity to review the TRIPS agreement towards the end of this year or early next year, I suggest that the government should take up this task seriously and it should try to mobilise public opinion in the Third World to pressurise these Governments and it should also try to ensure that whatever injustice was done in 1994-95, at least a part of that, is removed, when this discussion takes place. If this is the perspective, then we cannot give in now. If we give in now, what are we going to do when this matter comes up for discussion on the TRIPS agreement? I would urge upon the Government not to give in now, but to drag it, and, if possible, as I have mentioned, the whole agreement should be drafted in such a way in collaboration with other countries that we eventually succeed in changing the TRIPS agreement. Until that is done, there should be no concession given and no attempt should be made to compromise India's interests. I feel this Bill is anti-people, anti-national and I request the Government to ensure that this Bill is not brought before the House for voting.

SHRI SANATAN BISI (Orissa): I would be very brief, Madam. First of all, I would like to draw your attention to Rule 266 of the Rules of Procedure and Conduct of Business in the Council of States. It is about Residuary powers. The Rule says:—

> "All matters not specifically provided for in these rules and all questions relating to the detailed working of these rules shall be regulated in such manner as the Chairman may, from time to time direct".

Madam, we raised a point of order in the first hour that we were not allowed to speak and that we were not allowed to have a decision on it from the Chair. Secondly, it was in the newspapers and Shri Gurudas Das Guptaji had also very elaborately explained that so far as the report of the Law Commission was concerned, they had unanimously come to the conclusion that certain clauses in the

Bill impinged on our national interest. The Law Commission had advised the Government to have the issue debated in the Lok Sabha before the Patents Bill was passed. So, it was mandatory. I would explain why it was mandatory. madam, the first law Commission was formed as far back as on 14th December, 1991.Thereafter, the law Commission has been continuing. So far as the terms of reference of the Law Commission are concerned, I need not ...*(Interruptions)*

THE DEPUTY CHAIRMAN: I am listening. Please go ahead. Members have to be present for voting; that is why I was listening to her.

SHRI SANATAN BISI: Madam, I was referring to how the Law Commission was first constituted. So far as the terms of reference are concerned...

उपसभापति: आप कहां से पढ़ रहे है?

श्री सनातन बिसि: मैडम, यह मैं लोक सभा डिबेट से पढ़ रहा हूं। ...(व्यवधान)

It is on page 338.

SHRI MD. SALIM: You state the year also.

THE DEPUTY CHAIRMAN: No, I am not asking for the year. You can go ahead.

SHRI SANATAN BISI: Madam, this is Volume No. XXI. There are these paragraphs about the terms of reference of the Law Commission, as it was constituted then. I need not go into them. The next thing I am referring to is the Year Book 1999 and I am referring to page 540 where it is mentioned that the 15th Law Commission has been constituted with effect from December 1, 1997, under the resolution passed by the Parliament. So, the 15th Law Commission had been constituted with effect from December 1, 1997.

So, several things are there. The Law Commission is formed from time to time. Those things are there, I am not going into the details of it. Madam, the other thing I would like to submit is this. So far as the Evidence Act relating to public documents is concerned, section 74 of it says, "The following documents are public documents:

(a) Documents forming the Act or records of the Acts of the sovereign authority.

(b) Official bodies and tribunals and public officers, legislative, judicial and executive."

So, these things are known as public documents. The reason for my referring to the definition of the public documents is that the Government is not producing the law Commission's report, although it is in their hand. Certains portions of the Law Commission's report have appeared in the Press, but we, the Members of Parliament, are not aware of it. My hon. friend who was in possession of that report was not allowed to lay it on the Table of the House. On page 983, Kaul and Shakdher says,

> "However, on 14 March, 1989, certain portions of the Thakkar Commission Report were published in a section of the Press. Members thereafter demanded in the House that since portions of the Report had been published in a newspaper, the said Report was no longer secret and should be laid on the Table of Lok Sabha."

Madam, there are very clear instances of laying of papers on the Table of the House. I think, they are doing injustice when they are withholding it from the Members of parliament. As a result, we are unable to participate in the debate properly.

Madam, the other thing I would like to say is, the Government is not laying a public document on the Table of the House. When my hon. friend wanted to lay it on the Table, he was not allowed to do so. Therefore, there is no meaning of the debate. We are not able to participate in the debate properly. I want to withdraw.

THE DEPUTY CHAIRMAN: Withdraw!

SHRI SANATAN BISI: Yes. ...*(Interruptions)*...

SHRI MD. SALIM: Madam, I am on a point of order. It is an unfortunate thing, and I request the hon. Member not to withdraw from the House. Madam, I am on a point of order on his submission.

THE DEPUTY CHAIRMAN: Withdraw means, walk-out.

अभी आप इन की बात सुन लीजिए, फिर चले जाइए।

Maybe, he will also walk-out.

SHRI MD. SALIM: Madam, in the course of his speech, he raised a point. I am on a point of order. I am referring to Kaul and Shakdher and the rules because this debate is going on for five - ten years. Madam, he referred to a page of Kaul and Shakdher. Page 864 of Kaul and Shakdher...

SHRI ANANTRAY DEVSHANKER DAVE(Gujarat): Madam , I am on a point of order.

THE DEPUTY CHAIRMAN: He is already on a point of order.

SHRI ANANTRAY DEVSHANKER DAVE: Madam, the hon. Chairman has already given a categorical ruling on this issue. Therefore, he cannot raise it now. it is on record. ...*(Interruptions)*...

SHRI MD. SALIM: I am not challenging the ruling of the Chair. ...*(Interruptions)*...

SHRI JIBON ROY (West Bengal): Madam, ...*(Interruptions)*...

THE DEPUTY CHAIRMAN: Please sit down. I am sorry,Mr. Jibon Roy, you create more confusion than adding to any debate. Please, let this matter be settled between the Member and the Chair, and I have to apprise myself of the ruling which the hon. Chairman has given. if this ruling is binding on the House, then I,cannot allow the matter to be reopened. But, until and unless I give a patient hearing to Mr. Salim, I would not know what he is talking. Then, I will give my observations on it. Okay? There is no need to be so agitated and get up in support. I think, Mr. Salim does not need your support; you need his support.

सदन के नेता (श्री सिकन्दर बख्त): सदर साहिबा, मैं अपील करना चाहता था सनातन बिसि साहब से कि

We don't stage a walk-out on the ruling of the Chairman. I would reqeust him to continue to remain in the House.

SHRI MD. SALIM: Madam, I also made a similar appeal to him. I am not reopening the issue. My point is related to page 864. My learned friend has referred to the ruling given by the Chairman. I am not going into that. I am not opposing that also. Madam, for your information, I would like to inform you that when Shri Gurudas Das Gupta wanted to lay certain papers on the Table, the Chairman said that he cannot allow him to lay Government papers.

SHRI ANANTRAY DEVSHANKAR DAVE: He is saying the same thing.

श्री मोहम्मद सलीम: आप सुन तो लीजिए, थोड़ा धैर्य तो रखिए। ..**(व्यवधान)**.. प्लीज, प्लीज। जिन्होंने निगोसिएट किया, वह तो चले गए डब्ल्यूटीओ, डब्ल्यूआईपीओ में। अब आप तो नहीं जाएंगे, यही रहेंगे आप? हमें अपनी बात तो करने दीजिए। ..**(व्यवधान)**..

उपसभापति: सुनिए, प्लीज। एक सेकेंड। ... **(व्यवधान)**...

I have been told by the Secretary-General that the hon. Chairman' ruling was ...**(व्यवधान)**... आप बैठिए, मैं बताती हूं। उनकी रूलिंग थी, Shri Gurudas Das Gupta, as a private Member wanted to lay an official report of the Government on the Table of the House which was disallowed. ...*(Interruptions)*... Pleased do not mention that. ...*(Interruptions)*...

SHRI MD. SALIM: We accept that. ...*(Interruptions)*... I am not opening that again. ...*(Interruptions)*... But, I want to say something for your benefit and for those who are concerned. ...*(Interruptions)*... Shri Gurudas Das Gupta wanted to lay a paper duty authenticated. The

Chairman disallowed it. ...*(Interruptions)*... I think there was a ruling in 1974 by the Speaker in the other House that he cannot allow a private Member to lay Government's papers. ...*(Interruptions)*...

THE DEPUTY CHAIRMAN: In our House also, it was not permitted. ...*(Interruptions)*... Even in the Rajya Sabha, I remember it by heart, the Thakkar Commission Report was not allowed to be laid on the Table of the House by a private Member.

SHRI MD. SALIM: I accept that. ...*(Interruptions)*... After that Mr. Gurudas Das Gupta continued his speech. Then Mr. Gupta made his speech. ...*(Interruptions)*... I am on a different point. ...*(Interruptions)*... Unless you listen to me, it will be very difficult for me to explain. ...*(Interruptions)*...

THE DEPUTY CHAIRMAN: Sometimes the difficulty is that we listen to you. ...*(Interruptions)*...

SHRI MD. SALIM: The Chairman referred to page 876, I am not referring to that. ...*(Interruptions)*... Then the Chairman referred to the ruling of the Sepaker given in 1974. I am not referring to that. I am also not asking that a private Member should be allowed to lay on the Table any official document. No, I am not asking for that. ...*(Interruptions)*... I am on a different point of ruling. I am referring to page 864, para (iii) — Papers Laid under the Statutes. ...*(Interruptions)*... It is not a private Member's paper and it is not just a Government's or official document. Para (iii) says, "Reports, etc., of statutory bodies, and other public undertakings, constituted under specific laws of Parliament. The provision regarding laying of papers of these bodies is, however, not uniformly laid down in the statutes. So, they are different. Sometimes they are to be laid in one year or six months or three months, etc. All this is a Government thing; no private Member thing. it is further stated, "In many of them, the requirement is either confined merely to the laying of accounts or the annual reports or their *ad hoc* reports." My point is that the Law Commission is a statutory body duly constituted by an Act of Parliament. It is a statutory report. There is nothing in law that you have to submit it within six months or seven months. In 167th Report, it is specifically requested that during the Budget Session it should be brought to the notice of Parliament. The law does not say anything specifically. I am referring to pages 864, 865 etc. No statutory report can be treated as a privileged document. This is the ruling which was given on 18.12.57 in the Lok Sabha. Firstly, I have established that this is a statutory report made by a statutory body. There is nothing in the law that ...*(Interruptions)*... presents the Minister from laying the report that we are demanding. ...*(Interruptions)*... It has been stated that a statutory report cannot be treated as a privileged document. Therefore, it must be laid on the Table of the House. ...*(Interruptions)*... I am asking the Government. ...*(Interruptions)*... I am not asking a private Member. ...*(Interruptions)*...

SHRI T. N. CHATURVEDI (Uttar Pradesh): Madam, any report of a statutory body. ...*(Interruptions)*...

SHRI M. VENKAIAH NAIDU: Madam, if they say. ...*(Interruptions)*...

SHRI MD. SALIM: It is not a privileged document. Madam, 167th Report of the Law Commission. ...*(Interruptions)*...

THE DEPUTY CHAIRMAN: Mr. Salim, I have heard you. The main thing is that the Chairman has disallowed it for a private Member to lay a Government document on the Table of the House. That is final. ...*(Interruptions)*...

SHRI MD. SALIM: Shri Gurudas Das Gupta, during the course of his speech, referred to certain point. He read from the samething. Hon. Members, including me, asked that he should be allowed to

lay it. He also demanded. But, he was not allowed. The hon. Chairman said, "I cannot allow." The ruling is, I am again reading the ruling...

SHRI SANATAN BISI: I am on a point of order. ...(*Interruptions*)... No discussion on that. ...(*Interruptions*)...

SHRI MD. SALIM: The ruling is at page 876. ...(*Interruptions*)... The ruling is....

THE DEPUTY CHAIRMAN: I read the ruling of the Chairman.

SHRI MD. SALIM: He was not allowed. Madam, at page 876 of Practice and Procedure of Parliament the hon. Speaker has observed that he could not allow an official document to be laid on the Table by a private Member. My submission is, I am not raising even a single question on this ruling. I am not asking a Government document to be laid by a private Member. ...(*Interruptions*)... I am on a different point....(*Interruptions*)...

THE DEPUTY CHAIRMAN: Just one second. Let me put the words properly. I will not permit him to raise any question on the ruling of the hon. Chairman. I only want to ask you one question. Mr. Salim, having said that, what are you talking then? If the Government is willing, you can ask the Government to lay it and whenever the Government wants to lay it, they lay it on the Table of the House.

SHRI MD. SALIM: Madam, I may be permitted to complete my point of order. ...(*Interruptions*)... It is a limited point. ...(*Interruptions*)...

उपसभापतिः क्या है, शार्ट में बोल दीजिए।

SHRI MD. SALIM: I have a very limited point. ...(*Interruptions*)...

श्री अनन्तराय देवशंकर दवेः महोदया, जब यह सवाल उठाया गया, तब गुरुदास जी ने लास्ट में कहा कि आई एम सब्मिटिंग दिस रिपोर्ट....

उपसभापतिः देट आई नो।

श्री अनन्तराय देवशंकर दवेः मैडम, उस पर चेयरमैन का रूलिंग आ गया, उसके बाद सनातन बिसि उसके लिए आरग्यूमेंट कर रहे हैं। उनके समर्थन में यहां श्री सलीम आरग्यूमेंट कर रहे हैं कि यह रिपोर्ट रखी जाए। ...(**व्यवधान**)...

THE DEPUTY CHAIRMAN: Let me deal with it. ...(*Interruptions*)...

श्री अनन्तराय देवशंकर दवेः जब चेयरमैन साहब ने अपनी रूलिंग दे दी है तब वह कोई आरग्यूमेंट नहीं कर सकते और ...(**व्यवधान**)... जस्ट वन सैकिंड। मैडम, आपने सही फरमाया कि आपके आरग्यूमेंट के बाद आप क्या करना चाहते हैं तो उनके पास कोई जवाब नहीं। ...(**व्यवधान**)...

उपसभापतिः मै यही कह रही हूं। Mr. Salim, just one second. There are two points in it. Mr. Gurudas Das Gupta's request and the other Members desire is, he should be permitted to lay whatever report he wants to lay on the Table of the House, which happens to be a Government report and that is being denied according to rule and the hon. Chairman has given his ruling. That matter is closed. I do not know what you are speaking. If Mr. Bisi said that the Government should lay it, he can ask the Government to lay it because the Government is not a private Member. He had made his point. So, now, it is over.

SHRI MD. SALIM: Madam, I am raising a point of order. There is one limited point.

SHRI M. VENKAIAH NAIDU: Madam, he is misleading the House. I am on a basic point.

THE DEPUTY CHAIRMAN: What is the basic point?

SHRI MD. SALIM: If you allow him in between my point of order, I may not be able to complete my point of order.

SHRI M. VENKAIAH NAIDU: Number one is, the Law Commission is not a statutory body. Let us go through the rules. The entire premises on which the hon. Member is trying to build up and then trying to divert the attention of the House is ...(*Interruptions*)... Madam, let me finish ...(*Interruptions*)...

SHRI MD. SALIM: Madam, he is casting aspersions on me ...*(Interruptions)*...

SHRI M. VENKAIAH NAIDU: I am addressing the Chair, not you. ...*(Interruptions)*... You ask your colleagues to sit. ...*(Interruptions)*... They are quarrelling among themselves. ...*(Interruptions)*...

SHRI MD. SALIM: Is he sitting one the judgment seat? ...*(Interruptions)*...

SHRI M. VENKAIAH NAIDU: Madam, what is this? ...*(Interruptions)*...

SHRI MD. SALIM: He should have some respect for his fellow-Members ...*(interruptions)*... He should have some respect for his colleagues ...*(Interruptions)*...

SHRI M. VENKAIAH NAIDU: Firstly, it is not a statutory report. ...*(Interruptions)*...

SHRI NILOTPAL BASU: Madam, how can he give his opinion on the point order? ...*(Interruptions)*...

SHRI M. VENKAIAH NAIDU: You are trying to divert the attention of the House. ...*(Interruptions)*...

SHRI NILOTPAL BASU: How will he give his opinion on a point of order? ...*(Interruptions)*...

THE DEPUTY CHAIRMAN: I would rather like the Minister to answer ...*(Interruptions)*... Order please ...*(Interruptions)*... Okay, now, please sit down ...*(Interruptions)*... Just one second ...*(Interruptions)*... Let the Member put his question ...*(Interruptions)*... मैं आपको अलाऊ करूंगी, नो बॉडी ऐल्स विल स्पीक। The whole thing is ...*(interruptions)*... I am dealing with two aspects. The Chairman's ruling in intact. No private Member can lay a Government document on the Table of the House. That is over. That is closed. Coming to your saying that it is a statutory report, I would say that if the Government wants to lay it on the Table of the House, let the Minister say so. Let him also say whether it is a statutory report or not. That is one question. Let him answer this question. Let the matter be clear before the House. There should be no confusion.

SHRI SIKANDER BAKHT: Madam, this is not a statutory document. The Law Commission was created by a Resolution of the Cabinet ...*(Interruptions)*...

SHRI MD. SALIM: Madam, I have not yielded yet ...*(Interruptions)*...

उपसभापति: अभी डिबेट आगे बढ़ने दीजिए, अब आप क्या बोल रहे हैं? वह मामला खत्म हो गया।

SHRI MD. SALIM: Madam, the Minister has come to the House to pass a piece of Resolution ...*(Interruptions)*... Okay, the Law Commission ...*(Interruptions)*... when you take up in Parliament, you take up this view also. You consider this ...*(Interruptions)*...

SHRI SIKANDER BAKHT: It is a wastage of time ...*(Interruptions)*...

SHRI MD. SALIM: Madam, it is written in the letter, which forwarded the report to the concerned Minister, that during the Budget Session. The time is specified. Parliament should take note of it. Now, if the Government wants to pass a piece of Legislation ...*(Interruptions)*... It is there in the report, which the Government is having. Why is it not ...*(Interruptions)*...

श्री सिकन्दर बख्त: अजीब जाहिल है, अजीब पागलपन है ...**(व्यवधान)**

श्री मोहम्मद सलीम: क्या? क्या? Please repeat. Please repeat. He is the Leader of the House ...*(Interruptions)*... He is the Leader of the House ...*(Interruptions)*...

श्री सिकन्दर बख्त: सलीम, मेरी तुमसे इस किस्म की बात होती है, कोई अलपफाज तुम्हें तकलीफ पहुंचा रहे है तो मैं उन्हें वापस लेता हूं, माफी मांगता हूं ...**(व्यवधान)** यह क्या बात हो गई ...**(व्यवधान)** मैं यह कह रहा हूं कि जब मेरे बोलने का वक्त आएगा तो मैं लॉ-कमीशन की बात करूंगा। तुम पहले से क्या उधम मचा रहे हो? क्यों मचा रहे हो? बंद करो ...**(व्यवधान)**

†[ ]Transilteration in Arabic Script

†[ ]

बैठ जाइए ...(व्यवधान)

THE DEPUTY CHAIRMAN: Mr. Salim, will you please sit down now? You have had your say, and I gave you a patient hearing. You put a question and the Minister has replied that it is not a statutory report. Private Members cannot lay papers, but the Members can ask the Government to lay any paper. The Government has a right to reject it or to accept it. That right is not being taken away. Mr. Bisi and you requested the Government that the papers which are not allowed to be laid by the Private Members, should be laid by the Government. Now, it is entirely up to the Government whether they want to lay it or not. If they want to lay it, when it is to be laid, it is entirely their prerogative. Now, I will ask Mr. Rama Shanker Kaushik to speak ...*(Interruptions)*... No, your point is over ...*(Interruptions)*...

SHRI MD. SALIM: Madam, at page 867, there is another ruling ...*(Interruptions)*... I am supporting the Minister ...*(Interruptions)*...

THE DEPUTY CHAIRMAN: If you are supporting, then please sit down...*(Interruptions)*...

SHRI MD. SALIM: According to it, a refusal by a Minister to place a confidential document, not a statutory report, on the Table of the House, is not a breach of privilege. This is the ruling. The speaker cannot compell a Minister to lay a document if its disclosure is claimed to be against public interest. I am quoting this ruling from page 867. This ruling was given on 26th February, 1970 and 2nd March, 1970. Let the Minister also say that disclosure of this document is against public interest...*(Interruptions)*...

THE DEPUTY CHAIRMAN: When he will reply, he will say whatever he wants to say. Apart from this, a lot of queries have been made, concerns have been expressed by Members. So, please conclude now and let the Minister reply to all your queries, doubts, apprehensions, concerns. Now, I will ask Mr. Rama Shanker Kaushik to speak.

मौलाना अबैदुल्ला खान आज़मी (बिहार): मैडम, जवाब तो शायरी में होगा।

†[ ]

उपसभापति: नहीं, शायरी में नहीं होगा, सीरियस होना चाहिए। चलिए, अब कौशिक जी को बोलने दीजिए। अब आप भी सीरियस हो जाइए।

श्री रमा शंकर कौशिक (उत्तर प्रदेश): माननीय उपसभापति महोदया, मैं पेटेंट संशोधन विधेयक का विरोध करने के लिए खड़ा हुआ हूं और श्री गुरुदास दासगुप्त जी ने जो निरनुमोदन का प्रस्ताव रखा है, उसका समर्थन करने के लिए खड़ा हुआ हूं। मैडम, यह विधेयक एक ऐसा विधेयक है जो हमारे देश की कृषि को बुरे तरीके से प्रभावित करता है, हमारे उद्योगों को बुरे तरीके से प्रभावित करता है। हमारे देश की सम्प्रभुता को प्रभावित करता है और आर्थिक गुलामी की ओर ले जाने के लिए हमें अग्रसर करता है। मैडम, इस विधेयक पर विचार करते हुए केवल इस विधेयक की धाराओं पर ही विचार नहीं करना है वरन् इसके साथ-साथ जो गैट की व्यवस्थाएं हैं, जो ट्रिप्स की व्यवस्थाएं हैं, जो डब्ल्यू०टी०ओ० की व्यवस्थाएं हैं, उन पर हमें विचार

करना होगा इसको उनसे अलग करके नहीं सोचा जा सकता। सन् 1994 में जब से डब्ल्यू०टी०ओ० दुनिया के नक्शे पर आया और उसका जो मकसद था, वह भी अपने में बहुत स्पष्ट था। उसका मकसद था कि जो पश्चिमी देश विकसित देश हैं वे अपनी समृद्धि को कैसे बनाए रखें? वे अपनी समृद्धि के लिए कौन सा बाज़ार खोल कर रखें और जो उनके यहां समस्याएं आ रही थीं समृद्धि के मामले में, उन समस्याओं का निराकरण कैसे करें? इस दृष्टि से इस विश्व व्यापार संगठन का गठन हुआ और उसी के हिसाब से ये सारी कार्यवाहियां हो रही हैं। जहां तक पेटेंट बिल का सवाल है, मैडम यह इसलिए मैं निवेदन कर रहा हूं कि इसको हम डब्ल्यू०टी०ओ० से अलग करके नहीं सोच सकते। गैट की जो व्यवस्थाएं हैं, जो ट्रिप्स की व्यवस्थाएं हैं, उनसे अलग करके इसको नहीं सोच सकते। इन सारी बातों को एक साथ लेकर हमें चलना पड़ेगा।

मैडम, इससे हमारी आर्थिक व्यवस्था कैसे दूषित होगी, उस पर मैं दो-चार बातें रखना चाहता हूं। हमारे उद्योग कैसे प्रभावित होंगे क्योंकि जो उसकी व्यवस्थाएं हैं, विश्व व्यापार संगठन की व्यवस्थाएं हैं, उन व्यवस्थाओं से हमारे देश की आर्थिक स्थिति को.....व्यापार तो हमेशा से होता रहा है। भारतवर्ष में व्यापार बहुत पुराने समय से होता रहा है। इतिहास से पहले की भी बातें जो हमको सुनने में मिलती हैं पुराणों में या और कथाओं में, उनमें भी मिलता है कि हमारा देश बहुत पहले से ही व्यापार करता रहा है, दूसरे देशों के साथ व्यापार करता रहा है। लोग बहुत परेशानियां उठा कर जाते रहे हैं, जोखिम उठाते रहे हैं लेकिन व्यापार किया जाता है अपने हित में ही। कोई भी देश व्यापार करे, वह अपने देश के हित के लिए ही व्यापार करता है लेकिन अगर हम व्यापार इस दृष्टि से कर रहे हैं कि हम दूसरी बहुराष्ट्रीय कंपनियों को या दूसरे देशों को सुविधाएं देंगे अपने देश में तो निश्चित रूप से हम समानता के आधार पर व्यापार नहीं कर रहे। इस पेटेंट बिल में भी और इसके साथ जो जुड़ी हुई चीज़ें हैं, विश्व व्यापार संगठन की बातें जुड़ी हुई हैं, उनसे यह साफ ज़ाहिर होता है कि हम दूसरे देशों को, दूसरी बहुराष्ट्रीय कंपनियों को अपना बाज़ार उपलब्ध कराने के लिए कार्यवाहियां कर रहे हैं। हमारा 1970 का जो पेटेंट बिल है, जो संशोधन आया है, उसके ज़रिए से पेटेंट उत्पाद पर होगा यानि कोई भी नई प्रक्रिया हमारी हो नहीं सकती और यह निश्चित बात है की हमारे देश ने जो तरक्की की है, हमारे देश ने जो अन्वेषण किए हैं, हमारे देश ने जो रिसर्च की है, वह प्रक्रियाओं पर अधिक हुई है चाहे आप उद्योग विभाग को देखें चाहे आप दवाइयों के उद्योग को देखें। तो प्रक्रियाओं के मामले में हम लोगों ने तरक्की की है और अगर प्रक्रियाओं के ऊपर पेटेंट न हो कर उत्पाद पर होगा तो हमारी सारी जो आज तक की उपलब्धियां हैं, वे सब चौपट हो जाएंगी।

मैडम, जैसा मैंने शुरू में निवेदन किया कि ट्रिप्स समझौते के तहत जो बातें हैं, वे सारी की सारी इन बातों पर लागू होती हैं और उसके खंड 5 के अनुच्छेद 27 में बिल्कुल साफ लिखा है, जैसे ये लोग कहते हैं या सरकार कह रही है कि हमारी बौद्धिक सम्पदा पर कोई हमला नहीं होगा। हमारी बौद्धिक सम्पदा पर पूरा का पूरा हमला होगा, इसमें कोई संदेह नहीं है। ट्रिप्स समझौते की जो शर्तें हैं, उन पर भी आप ज़रा सा गौर करें कि ट्रिप्स के खंड 5 का अनुच्छेद 27 कहता है कि "Patents shall be available for any invention whether product or process in all fields of technology". केवल स्वयं सृजनित जो पौधे हैं, उनको फिलहाल छोड़ दिया गया है या जो स्वयं जीव पैदा होते हैं, उनको छोड़ दिया गया है लेकिन लेबोरेटरी में जो चीजें तैयार होगी, उनको इसमें नहीं छोड़ा गया है और चार साल के बाद यह भी लागू कर दिया जाएगा, इस पर भी पुनर्विचार होगा। जिन चीजों को इस समय छोड़ा गया है, अगर यह पेटेंट बिल पास हो जाता है और इन शर्तों के आधार पर यह हो जाता है तो चार साल के बाद आप उस पेटेंट को उन जीवों पर भी, उन पौधों पर भी नहीं रोक पाएंगे जो आज चार साल के लिए छोड़े जा रहे हैं।

इस स्थिति में जिन दवाइयों को मुक्त किया गया है, जीव भी मुक्त किए गए हैं, लेकिन वे चार साल के लिए। आप मानिए कि चार साल बाद फिर यह लागू हो जाएगा। दवाइयों के और रसायनों के मामलों में सारी बातें इसी प्रकार की है और इसको चरणबद्ध उन्होंने किया है। उस पर ये कहते हैं कि हमारी दवाओं पर कोई असर नहीं पड़ेगा, हम किसी प्रकार से दवा से प्रभावित नहीं होंगे। सन् 95 से आपका पेटेंट लागू समझा जाएगा। आपका पेटेंट बिल लागू पास हो जाने पर, जो कि 95 की जो दरख्वास्तें हैं बहुराष्ट्रीय कंपनियों की ओर जो तीन हजार की तादाद में है, उन पर भी आपको विचार करना होगा, उन पर आपको पेटेंट देना पड़ेगा।

यह बिल्कुल साफ बात है हमारे यहां, जैसा मैंने शुरू में निवेदन किया कि प्रक्रिया का हमारे यहां ज्यादा अनुसंधान हुआ, ज्यादा कार्रवाई हुई और उसी से हमारी तरक्की या हमारा उद्योग, विशेष रूप से दवाइयों का

उद्योग बढ़ा है। आप जरा गौर करें कि 95 से हमारे यहां 28 दवाइयां बनीं, 96 में 53 बनीं, उसके बाद हमारे यहां 39 बनीं तो उन दवाइयों का क्या होगा? उन दवाइयों पर भी पेटेंट हो जाएगा, विदेशियों का, बहुराष्ट्रीय कंपनियों का और आप उन दवाइयों को भी बाजार में नहीं बेच पाएंगे और पेटेंट जिस देश में, दूसरे देश दवाइयों का पेटेंट हो गया है तो वह पेटेंट हमारे देश में भी लागू हो जाएगा, हम उन चीजों का न उत्पादन कर पाएंगे और न उसकी प्रक्रिया को बदलकर उत्पादन कर पाएंगे। ऐसी भीषण, ऐसी खराब विसंगतियां इस पेटेंट बिल के जरिए आने वाली है जो हमारे दवाओं के उद्योग को पूरा चौपट कर देगी। हमारे देश में 6000 करोड़ रुपयों का दवा का उद्योग है वह सारा का सारा हमारे यहां चौपट हो जाएगा, यह इस पेटेंट बिल की व्यवस्था से होगा। और जैसा मेरा निवेदन है कि चरणबद्ध तरीके से जो समझौता है, उसमें तीन चरण रखे गए हैं। आपको 95 से पहले चरण में उसको लागू करना पड़ेगा, 2000 में फिर उस पर विचार होगा और 2000 के बाद में जो चीजें 2000 में रह जाएंगी, उन पर विचार होगा, यह स्थिति यहां की होगी, तकनीकी क्षेत्र में और चीजों में भी। लोग कहते हैं कि 15 फीसदी केवल दवाओं पर हमारे यहां असर पड़ेगा, हमारे दवा उद्योग पर, बिल्कुल गलत है। हमारे देश में 80 फीसदी दवाइयां बनती हैं, उन पर इस पेटेंट बिल के जरिए से असर पड़ने वाला है और यह इस समय हम नहीं कर रहे, जो ऑपरेशन ग्रुप रिसर्च है, हिंदुस्तान का, इण्डियन काउंसिल ऑफ मेडिकल रिसर्च, इण्डियन ड्रग्स मैन्यूफैक्चरर्स एसोसिएशन, नेशनल वर्किंग ग्रुप, आन पेटेंट ला उनका यह कहना है। लगभग 76 फीसदी जो जरूरी दवाइयां हैं, जो महत्वपूर्ण दवाइयां हैं उन पर असर पड़ेगा। और यह पेटेंट की सिलेक्शन अवधि बीस वर्ष की है उत्पाद पर की गई है यह हमारे तमाम दवाइयों के उद्योग को, हमारे रसायन के उद्योग को चौपट कर देगा, इसमें कोई संदेह नहीं है। हम बहुराष्ट्रीय कंपनियों के शिकंजे में फंसते चले जा रहे हैं और यह सरकार इस बात को समझ नहीं रही है। बीस वर्ष उत्पाद पेटेंट और उसके बाद बीस वर्ष प्रक्रिया पेटेंट पर भी (समय की घंटी) महोदया, मैं तो अभी कुछ बोला ही नहीं।

उपसभापतिः अफसोस की बात है कि आपके दस मिनट होते हैं और आपके दस मिनट हो गए हैं।

श्री रमा शंकर कौशिकः हमारी पार्टी के दस मिनट ही हैं केवल?

उपसभापतिः जी

श्री रमा शंकर कौशिकः राजद को भी मिला दीजिए।

उपसभापतिः आप कहिए तो मैं सबको मिलाकर आप ...(व्यवधान)

श्री रमा शंकर कौशिकः नहीं, नहीं राजद नहीं बोलेंगे।

उपसभापतिः ऐसा कुछ नहीं होता देखिए, यह कोई तरीका नहीं है, आप सब के हैं। अभी कांग्रेस का तो एक घण्टा बाकी है तो क्या आप उनको भी बोलेंगे?

श्री रमा शंकर कौशिकः नहीं, नहीं उन्होंने कहा ...(व्यवधान)

उपसभापतिः हम लोग बहुत बोल चुके हैं, इस पर। विस्तार से इस विषय पर विचार-विमर्श होकर लोक सभा में भेजा था। रात साढ़े दस बजे तक सब लोगों ने बैठकर इस पर बात की थी।

श्री रमा शंकर कौशिकः फिर भी तो सरकार को सद्बुद्धि नहीं आई।

उपसभापतिः ठीक है, मैं इस बात को भी मानती हूं, आपका जो विषय है ...(व्यवधान) एक मिनट ...(व्यवधान)

Just one second, please. Don't interrupt me.

अगर आप रात भर भी बोलते रहेंगे, न आप अपना विचार छोड़ेंगे न सरकार अपना विचार छोड़ेगी तो हाउस की भी कोई गरिमा है, हाउस के कोई नियम है। यहां खाली हम लोग बोलने के लिए नहीं आते, कानून के साथ बोलने आते हैं। मैंने जो ऑब्जेक्शन रेज किए, बीसी जी या सलीम साहब ने, मैंने उसमें भी जवाब देने की कोशिश की, मंत्री जी से भी दिलाया, मगर एक सीमा के अंदर ही तो हाउस चलता है। आप कहें कि क्योंकि आपको इसमें बहुत आपत्ति है तो क्या हम लोग पूरा सेशन यही बोलते रहेंगे। आपका जो कुछ पाइंट बोलना है वह बोल दीजिए।

After lunch, I will call Mr. Virumbi.

1.00 P.M.

श्री रमा शंकर कौशिकः नहीं, नहीं, मैडम, हमारे साथ अन्याय मत कीजिए। मैडम, हमारे साथ अन्याय मत कीजिए।

उपसभापतिः अब आप खत्म कर दीजिए क्योंकि मुझे लंच करना है।

श्री रमा शंकर कौशिक: मैं लंच के बाद अपनी थोड़ी सी ओर बात करूंगा।

***उपसभापति:** जितना समय आपकी पार्टी को दिया है उतना ही तो आप बोलेंगे।

श्री रमा शंकर कौशिक: राष्ट्रीय जनता दल के समय से भी समय मिल रहा है।

उपसभापति: ऐसा नहीं होगा। जब यह मेरे हाथ में नहीं है तो मैं कैसे टाइम दे दूं। इसलिए आप दो मिनट बोलकर अपनी बात खत्म करें।

श्री रमा शंकर कौशिक: मैडम, जो यह मूल्य नियंत्रण वाली बात कह रहे थे, मूल्य नियंत्रण के मामले में भी मैं स्पष्ट कहना चाहता हूं कि इस पेटेंट बिल के बाद दवाओं पर आपके मूल्य नियंत्रण की कोई व्यवस्था लागू नहीं होगी। यह आपके ट्रिपस में है, आप उसको देख सकते हैं कि जो आयातित दवायें होगी, उनको आप बिकने से रोक नहीं सकते। पेटेंट बिल आने से उन पर आपके मूल्य नियंत्रण का कोई असर नहीं होगा और आप उसे पैदा भी नहीं कर पायेंगे। नतीजा यह होगा कि जैसे ग्लक्सो एक कम्पनी है, हालांकि यह बहु-राष्ट्रीय कंपनी है, यह दूसरे देशों में भी दवायें बनाती हैं, लेकिन हमारे देश में रेनीटोडीन नाम की जो दवा बनती है वह 29 रुपये में बिकती है, पाकिस्तान में जहां पेटेंट बिल पास हो चुका है, संशोधन हो चुका है वहां यह 261 रुपए में मिलती और अमेरिका में यह 400 रुपए में बिकती है। आप इस पर सोचिए, इस पर विचार कीजिए कि आप कैसे नियंत्रण कर लेंगे। नियंत्रण आप कर नहीं सकते। आप दवा बना नहीं सकते हैं तो क्या आप मरीजों को दवाओं से महरूप करेंगे या आप उनको मुंह मांगा दाम देने देंगे? इसको अदा करने के लिए आप मजबूर होंगे। इसलिए मूल्य नियंत्रण की अगर आप बात करते हैं तो मूल्य नियंत्रण का कोई सवाल ही नहीं है और लाइसेंसिंग के नाम पर भी रोक लगी हुई है। ऐसा नहीं है कि आप लाइसेंसिंग व्यवस्था कर सकते हैं जैसा आप कहते हैं कि लाइसेंसिंग व्यवस्था लगायेंगे। ट्रिप्स के अनुच्छेद 31 के रहते यह संभव नहीं है। विदेशी पूंजी निवेश की इसमें कोई गुंजाइश नहीं, विकसित देशों के स्वार्थ की पूर्ति होती रहे इसके लिए यह सारी कार्यवाही हो रही है। पेटेंट बिल हो या डब्लू० टी० ओ० हो, वह सारे के सारे पश्चिमी देशों के विस्तार, पश्चिमी देशों की समृद्धि बढ़ाने के लिए, उनकी समृद्धि और सम्पन्नता को कायम रखने के लिए हो रही है। इसलिए विदेशी पूंजी निवेश का कोई प्रश्न यहां पैदा नहीं होता। आप समझते हैं कि चाहे विदेशी कंपनियां हों, चाहे बहुराष्ट्रीय कंपनियां, हो, वे आपके यहां जो आ रही है, वह आपकी सामाजिक व्यवस्था को, आर्थिक व्यवस्था को ठीक करने के लिए आ रही हैं, यह गलत है। वे यहां पर अपना मुनाफा कमाने के लिए आ रही हैं। उनके मुनाफे को आप यहां रोक नहीं सकते। वे उसे अपने देश में या दुनिया में कहीं भी ले जा सकती हैं। आप उन पर कोई प्रति- बंध नहीं लगा सकते, उल्टे आप को उनके साथ अच्छा व्यवहार करना पड़ेगा। यह ट्रिप्स की शर्तों में हैं। इस पर भी जरा गौर कर लीजिए।

विदेशी पूंजी निवेश के मामले में 1993 में एक अध्ययन संयुक्त राष्ट्र संघ ने कराया था। उस अध्ययन में उन्होंने कहा था कि इस प्रकार की व्यवस्थाओं से, ऐसी व्यस्थाओं से पूंजी निवेश और उन बातों का प्रभाव एक सा हो नहीं सकता और इसमें पूंजी निवेश की कोई गुंजाइश नहीं है। यह संयुक्त राष्ट्र संघ के एक सर्वे में, एक अध्ययन में पाया गया। उसमें यह कहा कि इससे पूंजी निवेश बढ़ेगा। डब्लू०टी०ओ के जरिए से या पटेंट बिल के जरिए से, ऐसा गलत है। इसलिए यह काला कानून है और यह किसी भी देश की आर्थिक व्यवस्था को चौपट करने के लिए पर्याप्त है। पूंजी निवेश इससे आप ज्यादा कह सकते है यह आपका भ्रम है। अगर आप इससे विकास की बात करते हैं तो न इससे आपको कोई फायदा मिलेगा और न आपको तकनीकी सहायाता मिलेगी। वे न आपको कोई इस प्रकार की सहूलियत देना चाहते है और न ही पूंजी देना चाहते हैं, न आपको कोई तकनीक देना चाहते हैं। शोध पर इसका बहुत ही विपरीत असर होगा। सी०एस०आई०आर०, जिसकी 27 लैबोरेटरीज हैं, 27 प्रयोगशालायें हैं और 154 विश्वविद्यालयों में जिसके अध्ययन केन्द्र हैं, उसके महा-निदेशक श्री एस०के०जोशी का कहना है कि इसके कारण हमारी रिसर्च व्यवस्था, हमारी अनुसंधान व्यवस्था बिल्कुल चौपट हो जाएगी। यह सोचना की इस पेटेंट बिल से हमारे यहां शोध बढ़ेगा, हमारे यहां नई तकनीक बढ़ेगी, यह बिल्कुल भ्रम है और यह जनता को भ्रम में डालना है। यह बिल्कुल ही स्पष्ट बात है। मैं कहना चाहता हूं कि इस बिल से हमारे यहां की जो चीजे हैं, हल्दी अदरक, नीम, बासमति चावल जिसका जिक्र अभी विप्लव दास जी ने किया, इसके अतिरिक्त हमारी वन-औषधियों पर भी पेटेंट अमेरिका और दूसरे देशों में हो चुके है। प्लज्म के जो पेटेंट है वह भी 90 फीसदी हो चुके हैं। जीव और बीजों में भी ऐसी ही स्थिति है और यह जो हमारी चीजें हैं, सब में, इसके बाद ऐसी ही स्थिति होगी। इसलिए आप किस आधार पर कह सकते इससे देश की तरक्की होगी?

हमारे देश की आर्थिक तरक्की होगी। हमारे कुछ कांग्रेस के साथियों ने प्रस्ताव रखा कि आयुर्वेद को इसमें से निकाला जाए। मैं उनकी यह बात समझ नहीं पता हूं जब वह कहते हैं कि बीजों की बढ़ोत्तरी होगी, किसानो को अच्छे बीज मिलेंगे, किसानों के लिए यह अच्छा होगा, हमारे उद्योग बढ़ेंगे, हमारी दवा इंडस्ट्री बढ़ेगी इस पेटेंट बिल से तो उससे आयुर्वेद क्यों नही बढ़ेगा? आयुर्वेद को वह क्यों हटाना चाहते हैं? आप हटा नहीं सकते चाहे आप कोई भी व्यवस्था करें आप नहीं हटा सकते लेकिन यह तर्क समझ में नहीं आता। आप कहते हैं कि बीजों का उत्थान होगा, हमें अच्छी तकनीक मिलेगी, हमारे उद्योग पनपेंगे, हमारा शोध बढ़ेगा लेकिन आयुर्वेद को इसमें से निकाल दीजिये। यह कौन सा तर्क है? चाहे किसी भी पार्टी का हो, किसी भी नेता का हो, यह तर्क से बाहर है। अगर उन चीज़ो की बढ़ोत्तरी हो सकती है तो हमारे आयुर्वेद की भी बढ़ोत्तरी होगी इस पेटेंट बिल के ज़रिये से। आप इस पर कृपया बिचार करें कि अगर इससे हमारा आयुर्वेद खराब हो सकता है जैसे कि हमारे कुछ साथी मानते है, जैसे कि कांग्रेस पार्टी मानती है तो निश्चित रूप से हमारे बीजों पर भी बुरा असर पड़ रहा है, हमारे किसानों को बीज नहीं मिलेंगे और किसान जो बीज अपने आप पैदा कर सकता है, वह भी नहीं कर पाएगा। (समय की पंटी) मैडम, और पांच मिनट।

उपसभापतिः हो गया आपका। (व्यवधान)

श्री नरेश यादव (बिहार): महोदया ...(व्यवधान)

उपसभापतिः अभी इंटरप्ट मत कीजिये। उनका भाषण होने दीजिये **(व्यवधान)**

श्री नरेश यादवः महोदया, इसी सदन में जब अरूण शौरी जी बोल रहे थे तो हमारे शिव सेना के कुछ साथियों ने कहा था कि हमारा भी समय उनको दे दिया जाए तो चेयर ने निर्देश दिया कि उनको पार्टी ने समय दिया है। हमारी पार्टी ने भी उनको समय दिया है। **(व्यवधान)**

उपसभापतिः मुझे नहीं मालूम। **(व्यवधान)**

श्री नरेश यादवः उनको और बोलने का मौका देना चाहिये, व्यवधान नहीं किया जाना चाहिये। (व्यवधान)

श्री रमा शंकर कौशिकः मैं एक मिनट में अपनी बात समाप्त करूंगा। **(व्यवधान)**

उपसभापतिः बैठिये। **(व्यवधान)**

श्री नरेश यादवः यह महत्वपूर्ण मामला है, देश हित का मामला है। **(व्यवधान)**

उपसभापतिः महत्वपूर्ण बात है तो आप क्यों नहीं बोल रहे? **(व्यवधान)।**

श्री नरेश यादवः इससे किसानों का हित नहीं होगा, देश का हित नहीं होगा। देश कैसे चलेगा? **(व्यवधान)** देश को गिरबी रखा जा रहा है। **(व्यवधान)**

उपसभापतिः आप बैठिये। आप का टाइम भी पूरा हो गया है। **(व्यवधान)**

I will adjourn the House. I want to tell you, it is a discussion which should be taken seriously, not like a *hangama*. If you are serious about it. *(Interruptions)*...

आप बीच में बोलते हैं, उनको अपनी बात खत्म करने दीजिए। **(व्यवधान)** आप बैठ जाइये। **(व्यवधान)** मैंने पहले ही टाइम दे दिया है। **(व्यवधान)**

श्री नरेश यादवः महोदया, हम क्षमा चाहेंगे, यह हंगामा नहीं है। **(व्यवधान)** जब सही बात, दे हित की बात बोली जाए, मुझे इस बात का दुख है। **(व्यवधान)**

उपसभापतिः ठीक है, मैं आपको टाइम देती हूं। **(व्यवधान)** आपका नाम लिख दूं। **(व्यवधान)** आपका नाम लिख दिया, आप बोलियेगा। **(व्यवधान)**

श्री रामदेव भंडारी (बिहार): मैडम, चार घंटे का समय है, बोलने दीजिये **(व्यवधान)**

उपसभापतिः चार घंटे का समय है। देखिये,

यह चार घंटे का समय कौशिक जी या आपके बोलने के लिए नहीं है। **(व्यवधान)**

श्री नरेश यादवः हमारी पार्टी का कोई समय नहीं है क्या? **(व्यवधान)**

उपसभापतिः नही, कोई समय नहीं है। **(व्यवधान)**

श्री नेरश यादवः हमारी पार्टी का समय है। **(व्यवधान)** यह कैसे नहीं हो सकता है? **(व्यवधान)**

THE DEPUTY CHAIRMAN: I am not allowing you. The Chairman gave the ruling. You cannot question the ruling of the Chairman. Do you want to do the same thing to me. I am in the Chair. I

have got all the authority of the Chairman. You don't question my ruling. You can ask for my co-operation. You cannot ask like this.

श्री नरेश यादव: हमारी पार्टी का कोई समय नहीं है, यह बात कैसे हो सकती है? **(व्यवधान)**

उपसभापति: आप बैठ जाइये। **(व्यवधान)** I will adjourn the House for Lunch. Then, after reassembling, I will give five or six minutes to one Member from every party. Members from the Congress Party and the BJP are not speaking. Why should you insist on it?

SHRI GURUDAS DAS GUPTA: This is no generosity. ...*(Interruptions)*...

उपसभापति: ओ०के० अब आप खत्म करिये। **(व्यवधान)** आप बोलिये, मैं कोई मना नहीं कर रही हूं। आर०जे०डी० का कोई नाम आएगा तो मैं जरूर बोलने दूंगी। **(व्यवधान)**

श्री नरेश यादव: हम लोगों ने अपना टाइम दिया है कौशिक साहब को बोलने के लिए **(व्यवधान)**

श्री ओंकर सिंह लखावत (राजस्थान): सब का समय यह लेते हैं, किसी को बोलने नहीं दिया जाता **(व्यवधान)** कैसे चलेगा? **(व्यवधान)**

श्री नरेश यादव: आप क्या बोल रहे हैं? **(व्यवधान)**

उपसभापति: कौशिक जी, जल्दी बोलिये। **(व्यवधान)**

श्री रमा शंकर कौशिक: लखावत जी बोलना चाहें तो बोलें।

मैं आपके आदेश का पालन करते हुए एक मिनट में अपनी बात खत्म कर रहा हूं। मैडम, बीजों के संबंध में और जैवों के संबंध में ट्रिप्स के समझौते में अनुच्छेद 27(3)(बी) में यह जरूर कहा गया है कि सुइ-जेनेरेस प्रणाली में आप अपने जैवों और बीजों की सुरक्षा कर सकते हैं लेकिन उसके साथ जहां सुइ-जेनेरेस शब्द लिखा है वहां पर उसके साथ यह शब्द लिखा है कि प्रभावी सुइ-जेनेरेस के माध्यम से आप कर सकते हैं। उसकी प्रभावशीलता कितनी है, इसका निर्णय आपकी सरकार नहीं करेगी, उसका निर्णय आपका यहां का कोई संगठन नहीं करेगा, उसका निर्णय गैट की संस्था करेगी, डब्ल्यु०टी०ओ० करेगा। आप नहीं कर सकते हैं। इसलिए यह अनुच्छेद 27(3)(बी) बिल्कुल निरुद्देश्य हो जाता है, बेकार हो जाता है जब उसमें शब्द "प्रभावी" लिखा जाता है। उसकी प्रभावशीलता को तय करने के लिए गैट, डब्ल्यु०टी०ओ० की व्यवस्था की गई है। मैडम, मैं आपके माध्यम से सरकार से यह निवेदन करना चाहता हूं और अपने कांग्रेस पार्टी के साथियों से भी यह निवेदन करना चाहता हूं कि इन सारी बातों पर जरा गौर करें। जो एक प्रस्ताव रखा गया है विप्लव दासगुप्त जी ने रखा है और इसको गुरूदास दासगुप्त जी ने भी रखा है, कि इसको वापस ले लीजिए औ बैठ कर विचार कर लीजिए। लॉ कमीशन की रिपोर्ट भी देख लीजिए, सी०एस०आई०आर० की रिपोर्ट भी देख लीजिए और जो दूसरे हमारे प्रबुदजन हैं, देश के साईंटिस्ट हैं उनकी राय को भी ले लीजिए, मैडिकल एसोसिएशन की राय को भी लीजिए और इसके साथ ही अन्य जो ग्रुप हैं उनकी राय को भी ले लीजिए, तब जाकर इस पर विचार करें, ताकि हमारे देशी जो आर्थिक दुर्दशा होने वाली है और एक तरह से जो हमारी संप्रभुता नष्ट होने वाली है उसको बनाने के लिए और देश की आर्थिक सिथति को बचाने के लिए, इसको वापस लेकर इस पुनर्विचार कर लें। धन्यवाद।

THE DEPUTY CHAIRMAN: I want to put the record straight. Ten minutes of yours and ten minutes of the RJD party are being consumed. So, I will adjourn the House for lunch, for half an hour, and we will finish this issue.

SHRI GURUDAS DAS GUPTA: Madam, why is the House adjourned for lunch, for half an hour?

THE DEPUTY CHAIRMAN: If you want, I will adjourn the House for one hour, for lunch.

> The House then adjourned for lunch, at eleven minutes past one of the clock.

The House reassembled after lunch at twelve minutes past two of the clock. **The Deputy Chairman** in the Chair.

SHRI S. VIDUTHALAI VIRUMBI (Tamil Nadu): Madam Deputy Chairperson, today, I rise, with a heavy heart, to deal with certain issues arising out of the subject that is going to affect the entire nation. Madam, on this subject, previously, we had elaborately dealt with many

points. Therefore, I won't repeat the points already raised by me as well as by my colleagues. I am going to deal with the points which are left out. Since it is an important subject affecting not only the sovereignty of India but also the entire developing world, I hope the hon. Deputy Chairperson would be more considerate than ever before.

Madam, I am going to quote what the Standing Committee says particularly about the W.T.O. and the TRIPS Agreement. About the Patent (Amendment) Bill, the Standing Committee appeals, and I quote:

> "The Government must consult Parliament and its relevant Committees as well as the State Governments before reaching a decision."

Madam, I want to know whether the Government has consulted the State Governments. They did not consult them. Not only that; Madam, the Chief Ministers of seven States had sent letters to the Central Government expressing their concern about the pharmaceutical and the agro-chemical sesctors which come under the domain of the State Governments. Actually, they had expressed their concern and requested the Government to review and reconsider these issues. But what is more pathetic is that the Central Government is not even responding to the requests made by the State Governments as this is not a federal Government; this is a quasi-federal Government. That is how they have dealt with this. Therefore, the first point is that the Government has not at all adhered to the opinion expressed by the Standing Committee. Then, Madam, we had dealt with the subject of Law Commission in the morning. I want to quote an operative portion from that particular report. I quote from the Law Commission's Report. This is what Mr. B.P. Jeevan Reddy had stated to the Government. I quote: "If there is a change in the Indian Patent Act, the public will have to pay enormous sums through import and they have to wait for a prolonged period for any other manufacturer to produce the product and break the monopoly. Needless to say, it will be the drug required for the National Health Programmes. And the essential drugs will be the ones most neglected." Madam, this is the operative portion of that particular letter. They have not consulted the State Government. They have not yielded to the request made by the Law Commission. But whom did they consult? I wanted to clear that point. I quote from the *Business Line*. It says: "The Amendment Act is only a step in the new direction. Therefore, changes will have to be made by the end of the year which could be more problematic, and, therefore, time consuming. That is one reason why they have not been included in the amended Act. The deadline of this was April 1999. In fact, consultation on the intended changes have been held in Washington. About consultations, I quote again: '...that is one reason why they have not been included in the Amending Act. The deadline was April 1999'. In fact, consultations on the intended changes have been held with Washington, which reportedly is said to be concerned about the quality of the Exclusive Marketing Rights facility offered under the new Law. This apart, the term of patents is sought to be extended from the current 14 years to 20 years. And the burden of proof in the case of patent complaint is sought to be put on the defendant from the complainant. Therefore, instead of consulting the state Governments; instead of yielding to the advice given by the Law Commission, you have consulted Washington. Therefore, what we feel that—we are not doubting your integrity—in case Shri Sikander Bakht sits with us, in case Shri Yashwant Sinha sits by this side, no party will oppose more vigorously than them in this Bill. We know that. They are actually sitting and arguing against their conscience. We know that. Once, when Pandit Nehru went to Russia in the felicitation address, at that time Mr. Khrushchev said, 'We Russians, if we are friends, we are friends unto death. If we are enemies, we are

enemies unto death.' Pandit Nehru replied that as far as India is concerned, we have no enemies. This was the reply given by Pandit Nehru. It still holds good today; we have no enemies. There may be skirmishes with neighbouring countries, but no enemies. Therefore, when we oppose this Bill, we are not opposing any particularl individual or nation. We are opposing it in principle. We feel that it affects our national interest. It does not mean that you are less patriotic. But the perceptions totally differe from each other. That is the only problem.

Madam, our late lamented Prime Minister, Shrimati Indira Gandhiji, attended a conference at Geneva in 1980. That was the World Health Assembly Conference in which late Smt. Indira Gandhi had stated very clearly that as far as medical discoveries are concerned, as far as innovations in the pharmaceutical sector are concerned, no patenting should be given. The patenting system in this world should be abolished as far as medical discovery is concerned. This was the opinion expressed by late Smt. Indiraji in 1980 at Geneva. Therefore, we know how patriotically Indiraji spoke. Compared to her, none of us is so patriotic. She said that in the medical field there should no patenting. When this is so, when we are opposing it, it means that there is some reason behind it. It is not that without any reason we are opposing it.

Madam, if the invesment comes for infrastructure development, we do not oppose it. If any agreement takes place for the development of sophisticated technology, we do not oppose it. But if the FDI comes alright, but for making portfolio investments, means definitely it is a volatile money and it will affect our nation. That is how the East-Asian economy has been affected. As far as this issue is concerned, what I feel is that we have compare the behaviour of the developed countries, how they behave with us and how they behave when their own interests come into the picture. As far as the developed countries are concerned, they are concentrating to develop non-tariff barriers. They are cunningly playing under the guise of investigation. They want to put some anti-dumping laws. They want to see that the subsidies, which the developing countries are giving, are reduced. They want to introduce an environment clause. They want to introduce a social clause. When the national economy is integrated with the global economy under liberalisation, I would like to know whether the developed countries want to invest their capital in the developing countries. They are having surplus capital. We are having human resource as a surplus labour. We will agree to the developed countries sending their capital here. Will they agree to sending our labour to the developed countries? In case they do not agree to this, on what ground do they expect us to accept their capital other than in the infrastructure development and sophisticated technology development? On this argument there is a big full stop. We are unable to get any reply from the developed countries to this. Take, for example, the banana dispute. The European countries are buying bananas from Caribbeans. They were previously their colonies. Now America is insisting that the bananas should be bought from particular American agents, Dole or Chiquita. Why are they presing like this? The US Government wanted the importers to post bonds equuvalent to 520 billion dollars. Why I am saying this, I will explain later. Now how has the European union retaliated? They accused them. They said, "It is an irresponsible unilateral action." They accused them. The Americans show blatant disregard for the WTO dispute settlement process. Therefore, the British Prime Minister called the Americal Ambassador twice in a day and he had spoken over telephone to Mr. Bill Clinton, the President of America, and requested him to see that the displeasure is defused. After he had expressed his displeasue he requested the American President to intervene and settle the dispute. The French Forcign Minister issued

a statement where he said that they deplored the US action and called on the US Administration to show good faith and to reverse the decision. This is the statement given by the French Foreign Ministry, the French Embassy. Japan condemned this and said that it was deeply regrettable and that the WTO had not authorised America to suspend any concession. This is what Japan has said. Now what is the reason behind this? The reason behind this is as the observation made by Fred Bergsten, an American economist in Davos. In the recent meeting of the World Economic Forum at Davos in Switzerland, Mr. Fred Bergsten said that America's net foreign debt was two trillion dollars, which is equivalent to 25% of its GDP. That is the first thing. In 1980 also they had faced the same type of a situation. The second thing is this. What is their current account deficit? Their current account deficit is 3.5 per cent of the total GDP. A current account deficit of 3.5 per cent of the total GDP. and two trillion dollars net foreign debt means, they are facing the same situation which they had faced in 1980. When they faced the same situation in 1980 the value of American dollar fell by 50 per cent as against the German Deutschmark as well as the yen of Japan.

Now they are facing the same situation. In order to retrieve from the situation, to keep their own dollar *in tack* with international market, they want to put pressure on developing countries. How can we accept it?How is it possible for us to accept this type of colonialism? We cannot accept it. Therefore, Madam, with articles 65,70.8 and 70.9 of WTO they want to put pressure on us. At the same time, I say, why we are opposing it. For example as per the economic trade data issued by the Indian Trade Promotion Organisation, Indian export trade in principal commodities like drugs, pharmaceuticals, fine chemicals during 1993-94 was Rs. 2009 crores. Last year i.e. 1997-98 this was Rs. 5228 crores. Madam, as far as the import in 1993-94 is concerned, it is 808 crores only. In 1997-98 we imported Rs. 1300 crores but we had exported with more than Rs. 5000 crores. In case we accept these particular agreements, then we may have to import medicines worth Rs. 5000 crores and export goods worth only Rs. 800 crores. We are going to be affected in this way. This is against the national interest. When we know that this is the reason, how can we accept it? The day before yesterday Mr. Fred Bergsten came here from America. He actually had some important assignment. He wanted to give us a lecture that with the sanctions imposed by the American Government, India has been affected to the tune of 500 million US dollars. How has he arrived at it? Apart from that he wanted to know how many agencies withheld the payment, withheld the allocation because of that sanction. He did not judge it. Mr. Bergsten also revealed in Davos that there is a net deficit of two trillion dollars. Therefore, Madam, what we feel is; he arrived in India as the roving Ambassador of US Government. What I want to say is when we do not have any animosity with any country, what is the position of other States? In Davos, same Mr. Bergsten said that he is not going to stop there. He said that the steel industry is seeking comprehensive relief. Machine tools, semi-conductors, ship-building, textiles and several agricultural sectors should not lag behind. That means America is goint to be affected in machine tools, semi-conductors, ship-building and agricultural sectors. This observation was made by Mr. Bergsten. Therefore, to save their own economy, they wanted to put pressure on us. How can we agree with it? Therefore, I say that this is totally unwarranted. This should not be accepted by the Government of India. In case we accept it, I feel that we would be affected in the long run. For example, the World Industrial Property Organisation is in Paris. They are going to open more than 300 branches throughout the world. And for that they are putting computer network. If we give them any written text

in full for herbal medicines, for traditional medicines, for bio-diversity knowledge, animals, plants etc. Before we make an attempt for completing the comprehensive text about the herbal medicines, they will see that they are patenting it with some modification. Then, we will be losing these herbal medicines. There they will say later on that in California or in Washington etc. have already patented it. Then we will have to give up the right of the knowledge which we gained through centuries, to the developed countries. That means, we cannot compete with them. They are in this medicinal field for the last 500 years; but we have been trained in this field for more than 2000 years. But these things cannot be reduced into writing. It cannot be reduced into writing within a fortnight or within a year. When it is so, we cannot give full particulars about what we have. Therefore, when they come to know what the procedure is and what the process is , then they themselves will see to it that this is patented on the other side. This is what Dr. Biplab Dasgupta mentioned about Basmati and other things. How are they doing it? Last year we exported processed fish and marine products worth four thousand three hudred crores of rupees. The European Union said, "The process is not good .....*(Time-bell rings)* ....It is not according to the standards".

Now I come to the child labour and other things. Madam, Americans are coming here. They want to have information about the child labour. In developing countries — whether they are willing or not — child labour has been reluctantly forced on them. After having worked from dawn to dusk, the poor labourers are unable to get what they ought to get. In spite of that they are working. We know under what social conditions they are working. We have to eradicate this evil. Madam, suppose, they come over here to see the position of the child labour. I would like to know one thing from the Government. Will the Government constitute a team of some Parliamentarians and send them to American to find out as to what is the position of Negros in America so far as the human rights are concerned? Will the American Government agree to it? They will never agree. If the American Government is not going to agree, then on what conditions and on what basis has this Government allowed them to come here? Don't they feel that this has affected the psyche of the people? It is not that 500 million people have been affected. I am not talking about 500 million or one trillion or one billion US dollars. I am saying that our psyche has been gurt and wounded. Who are they to come over here and see our condition? They have been sucking our blood for the last 500 years. Europeans and Americans have sucked the blood of Africans and Asians. After having sucked our blood, they are now preaching the human rights and other things. How can we accept it? Therefire, it is totally unacceptable. If they say that it has to be accepted, it is against our conscience. We will not accept it. Therefore, I strongly oppose the Patents (Amendment) Bill, 1998. With these words, I conclude. Thank you.

SHRI H. HANUMANTHAPPA (*Karnataka*): *Madam, how can we go on* like this? We are working on a holiday. We had our own programmes. In the morning also we were thinking whether we would be able to come or not. The Chair should announce the voting time so that we can adjust our programmes. We have to call our Members also. We cannot go on like this. Madam, when will the voting take place? Some of us have to go. At what time will the voting be held?

THE DEPUTY CHAIRMAN: Mr. Hanumanthappa, I am sorry. You don't know it. I have already informed your leader, Shri Pranab Mukherjee about the timing of the voting. Probably, he has not informed you. So it is not my mistake. He came to me and asked, "Roughly, at what time would the voting take place?"

I said, "After the lunch hour we will have two speakers, Shri Virumbi and Shri Margabandu and the mover, if he wants to speak and then the reply of the Minister". I Expect that around 3.15 p.m. we can have the voting. They asked me and I told them. The House did not ask me. Therefore, I did not announce it. I do not announce on my own. If you ask me, I will tell you.

श्री संजय निरुपम: मैडम, माननीय सदस्य के पास 6 मिनट थे लेकिन वे 25 मिनट बोले ...(व्यवधान)...

श्री सतीश प्रधान (महाराष्ट्र): मैडम, मेरा इतना ही कहना है कि जब हमें टाईम दिया जाता है बोलने का, तो उस समय टाईम का रिस्ट्रिक्शन लगाया जाता है।

उपसभापति: आप बोलिए, आपकी पार्टी नहीं बोल रही है। ...(व्यवधान)... It is not my duty to answer you. It was decided in the Business Advisory Committee that four hours will be given for the discussion. I had made my own views on it which I expressed in the morning. It is the decision of the Business Advisory Committee in which the Leader of the House, the Leader of the Opposition and leaders of other parties were present. They gave four hours for discussion. I am trying to control as much as I can. You don't say that when your time comes, we don't allow you. I will do that for you too. It will be unrealistic if Iask Mr. Margabandu to make his points on an inportant issue in four minutes. If he wants to say something, I have to be realistic. That is exactly what I was saying. If we accept a discussion for one hour, should I expect the Members of this House to speak for one minute? Is it realistic?

SHRI SATISHCHANDRA SITARAM PRADHAN: It is because whenever we speak, all these things come in between.

THE DEPUTY CHAIRMAN: Now, I have two more names, Shri Abani Roy and Dr. Arun Kumar Sarma, because they were not there before. They have come just now. Yes, Shri Margabandu, I think, you heard everybody's feeling. Please abide by it.

SHRI O. RAJAGOPAL (Madhya Pradesh): He also heard Shri Virumbi.

THE DEPUTY CHAIRMAN: Shri Virumbi had just six minutes' time.

SHRI R. MARGABANDU (Tamil Nadu): Madam Deputy Chairman, hearing the arguments from the other side, I observe that they are seeking relief on two country; one is that it should be sent to an expert committee, and the other relief is that this Bill should be withdrawn. These are the two things they are asking for without realising the realities in this case. Even about five years back, there was a Court verdict that a Bill should be brought forward. Then, the verdict was appealed, and even in the appeal, this relief was negated. Consequently, the deadline was fixed as 19th April, 1999. So, by 19th April, the Bill has to be passed. As a matter of fact, the very same arguments were advanced in this House when the Bill came up for discussion in the last Session. There is a compulsion on the part of the Government to pass this Bill by 19th of April. This is what has necessitated the Government to bring this Bill. As I have said earlier, unless the WTO Agreement itself is cancelled, we are bound by that Agreement, by the conditions of that Agreement. And this Government is also committed to obey the order of the Court. So, in this way, this Bill has come up, and it has to be passed. There is no other way out. In all these five years, the other side could have asked for a discussion either in a select committee or in a joint committee or in any other forum. The didn't do it. But the fact is that now they are asking for a reference to an expert committee. I feel, in my humble opinion, that this may not be possible. Then, Madam, in this Agreement, there are merits as well as demerits. The arguments on the other side are only on the aspect of demerits. The merits aspecs of this WTO have not been put forth by the other side. If the

argument is to be realistic, it must be on both the aspects, merits as well as demerits. After assessing whatever is favourable to the nation, it should be accepted. They should not oppose for the mere sake of opposing it. The reality should be addressed. Here too, what suggestions are they giving! In the alternative, their duties and responsibilities don't stop with that. They must give concrete suggestions. They must say what alternative is available with this Government. It is not BJP Government which signed this WTO. But it has become obligatory on the part of the Government to pass this Bill.

Madam, so far as the question of dumping is concerned, there is an allegation against our Minister that the price of steel has been fixed above the normal range, and there is an allegation against the Ministry of this Government. Now, we can say that on account of dumping, foreign goods are dumped here and even steel prices have gone down. But if this is allowed, then all the steel companies will have to close down there units. And it will pave way for the foreigners to dictate terms with reference to price. So, all these things will have to be taken into consideration. They also say that if the right to patenting is given, the country's rights will be taken away, that we will be mortgaging our rights. It is in today's newspapers that the Government is mortgaging the country's interests to multinational companies. These multinational companies are engaging our technologists. The general anguish is that—the Opposition parties can suggest it to the Government—a lot of technicians and scientists of this country—very genius minds are coming out of IITs and other institutes in our country—are being sold to foreigners, and there is a brain-drain. We can utilise their brains for the uplift of our technologies and for the improvement of our nation. This can be thought of as to how best the brains of our people can be utilised for the improvement of our nation. So, Madam, I support this Bill. There is no other alternative than to pass this Bill. The Government is committed to this Bill. So, I support it.

श्री सतीश प्रधान: मैडम, मैं आज सुबस से यहां सभी वक्ताओं का भाषण सुन रहा था और मुझे बड़ा मजा आ रहा था। ...**(व्यवधान)**... मुझे मजा इसलिए आ रहा था कि सदन में....

उपसभापति: मजा आ रहा था ...**(व्यवधान)**...

श्री सतीश प्रधान: मजा आ रहा था इसलिए कि हमारे कम्युनिस्ट दोस्त यहां सदन में बात कह रहे थे और स्वदेशी की बात कह रहे थे। मुझे याद आ रही है बहुत पुरानी बात, जब हम बच्चे थे, पढ़ते थे, तब से हम इनकी फिलासपी सुनते आए हैं। तब हमें बताया जाता था कि इनकी फिलासपी मास्को से इम्पोर्ट की हुई है। इनका जो झंडा है वह भी उधर से ही आया था, निशान भी ये उधर से लेकर आए थे और आज ये सभी लोग स्वदेशी की बात कर रहे हैं। इसलिए मुझे मजा आ रहा था और इसलिए मैं उनका अभिनन्दन करता हूं जो आपके विचारों में परिवर्तन हो गया है और जो स्वदेशी की बात आपने शुरू कर दी है। आप आगे भी ऐसे ही विचार रखें, इतना ही मैं कहता हूं। धन्यवाद।

SHRI ABANT ROY (West Bengal): Madam, I oppose the Patents (Amendment) Bill on principle. I oppose this Bill in the national interest. This Act was enacted by Parliament to constitute a law concerning patents. It was based on a comprehensive report prepared by Justice Shri Rajagopala Iyengar once upon a time. Also, the Law Commission, under the Chairmanship of Justice D.P. Jeevan Reddy, submitted its 167th Report to the Minister of Law and Justice in which it has talked in detail about the patent amendments.

It has commented upon so many points. It has asked the Government that this Amendment Bill should be debated in the Budget Session of Parliament. My two colleagues and Shri Virumbi spoke in great detail and elaborated what the national interest is. I also thank Shri Gurudas Das Gupta for pointing out names of those persons who had signed this agreement on behalf of the Government of India and where those people

now are. It is essential to consider the serious implications of this Bill. It should not be passed without properly understanding its implications. Neem, haldi, basmati and other products have been patented outside our country. A day might come in the near future when a lot of our small farmers and traders may have to languish in jails.

Madam, I started my speech by saying that I oppose this Bill, in principle. In fact, it is a strange thing that in 1995, when the Patents Bill was introduced by the then Congress Government, the present Prime Minister, at that time, in protest, walked out of the House on the ground that it would sell the country's interests to the MNCs. It is ridiculous that the same person who believes in swadeshi and who is heading the Government, instead of tendering his resignation to retain his uprightness, is in a hurry to get the Bill debated and passed at the behest and with the assistance of the same Congress Party. I, therefore, appeal to the Government that before passing the Bill, an expert committee should be constituted to advise on this matter. I request the Government to take the opinion of our country, and then pass it; otherwise, our country will be in trouble, and whoever will pass it, they will have to give an explanation to the people.

DR. ARUN KUMAR SARMA (Assam): Madam Deputy Chairperson, I rise here to oppose the Patents (Amendment) Bill on various counts. When this Bill was being discussed in the last session, the Chief Minister of Assam requested the Union Government to convene a meeting of the Chief Ministers of the States to discuss it, before it is finally passed by both the Houses of Parliament. Madam, this important issue concerns all the States of the country. The Government should have consulted the State Governments prior to coming to this House. The Government has lost a lot of time, and it could have consulted the State Governments on various occasions.

Secondly, we know that this is an international obligation because we have opted for global economy. We are a party to the agreement and we have to go accordingly. But, at the same time, the speed with which our country's preparations should have been done, no priority was given to that. No priority was given to research and no priority was given to those issues on which India can be offensive. Rather everytime we are going on the defensive. We are solely depending on the register where a foreign company will come down and tax our poor customers heavily for certain medicines or other things. In that case, how can we defend our customers from the high prices to be claimed by these companies? I have very attentively listened to the speeches of Mr. Arun Shourie and Mr. Kapil Sibal. They were advocating that when we have a register, we can terminate any of the rights or cancel the permits of the foreign companies who go against the interests of our country. Madam, I can give you an example of one industry where the Parliament or the Government could not give any protection. The methanol industry was a profit-making industry. But, now because of gradual reduction in import duty and customs duty, the cost of production of our domestic industry is higher than the imported methanol. Now, most of the methanol producing industry which was earlier a profit-making one is now dying because the Government of India could not impose the required import duty or customs duty on the imported methanol. There is some compromise. The Government was requested, by this industry and by those States where this industry is in existence, in this regard. But, no attention was given to that. Then there is one more compromise. Even if there is a register, there will be compromises and there will be corruption. We cannot assure ourselves on this issue. Therefore, this should be deliberated thoroughly. Madam, the Planning Commission was formed by a resolution of the Cabinet.

On all issues, the State Governments are consulted by the Planning Commission. The Law Commission was created by an Act of Parliament. Now it has recommended something. Now, the Members of Parliament are being denied the privilege of knowing what the Law Commission has stated. *(Time-bell rings)* Madam Deputy Chairperson, you are very reasonable when you are in the Chair. But, you are not allowing the Members to know what the Law Commission has recommended to deliberate on. We are not in a hurry. We have still a day. We could have taken it up today or we can take it up on Monday. After that, we can discuss this Bill and if it is so necessary, we may pass it also. We know there is compulsion of time. The Commission formed by the Government has been ignored. The Law Commission has recommended hundreds of Acts and statutes which are invalied and absolete. They were enacted about 100 years ago during the British regime. These Acts and statutes are still continuing. The Law Commission has recommended to this effect in its reports one after the other. But, the Government has not considered it. Madam, these Commissions are running at the cost of public money. If the situation is such, then they should be abolished. Otherwise, we must place the Report of the Law Commission on the Table of the House. We must deliberate on what the Law Commission has suggested and then can take up the Bill next week. With these words, I conclude.

THE DEPUTY CHAIRMAN: I think Mr. Gurudas Gupta is not going to speak. All the speakers are over. The mover of the Resolution spoke at length. Now I ask Sikander Bakhtji to reply....*(Interruptions)*.. Let him reply...*(Interruptions)*...

SHRI ASHOK MITRA (West Bengal): Madam, may I seek your indulgence to beg my big brother, the Industry Minister, to lend me 20 seconds. *(Interruptions)*...just 20 second; not even 21 seconds.

I just take twenty seconds.

THE DEPUTY CHAIRMAN: It is not his time, it is the time of the House.

SHRI ASHOK MITRA: I seek your indulgence. Madam, there is a famous sentence in one of Karl Marx works. I am sure, Mr. Arun Shourie, knows it very well. That sentence goes, roughly, as follows, 'Hostory has a way of repeating itself twice—first time as a tragedy and the second time as a farce". The tragedy occurred, in this House, on the 22nd December, when the great *swadeshi* stalwarts suddenly discovered hidden virtues in this paticular Bill and decided to join the camp of the compradores. What is happening today is a third rate farce.

उपसभापतिः गुरुदास जी, आप तो नहीं बोल रहे हैं न?

श्री गुरुदास दासगुप्तः मैडम, मैं बोल रहा हूं।

उपसभापतिः आप इतना बोल चुके हैं, अब लंच अवर में क्या नई बात आ गई? अब आप मंत्री जी को बोलने दीजिए।

SHRI GURUDAS DAS GUPTA: He has the last word to say but I have the last laugh to laugh.

THE DEPUTY CHAIRMAN: You made all your points. Do you think that you still left anything?

SHRI GURUDAS DAS GUPTA: He has the last word to say but I have the last laugh to laugh.

THE DEPUTY CHAIRMAN: Then I will give you permisson to laugh after the reply.

SHRI GURUDAS DAS GUPTA: I have a very short point to reply.

THE DEPUTY CAIRMAN: But, you are replying to whom? He has not made his point.

SHRI MD. SALIM: Madam, he is the mover of the Resolution.

THE DEPUTY CHAIRMAN: I know. But, is he replying to his own speech? It is very peculiar. To what is he replying to?

SHRI GURUDAS DAS GUPTA: I thought that you will ask me to reply.

THE DEPUTY CHAIRMAN: The procedure is like that. First, I have to ask you and then, perhaps, you have to reply to all the Members who have spoken but not to the Minister because he will have the last speech.

SHRI MD. SALIM: Madam, except Mr. Margabandu, there are no batsmen on the other side.

SHRI GURUDAS DAS GUPTA: The tragedy is, the defenders of the Bill have quietly withdrawn together. The defenders of the Bill have quietly withdrawn from this side and the other side. Their silence is eloquent; eloguent, because there is nothing to reply. It is better to hide behind something than to expose your own face. That is the whole tragedy. I have two or three points to make. my point is, there are people who do not know rules. Ignorance is a virtue in this House. I think, the ignorant people should be taught about the rules of the House. Anyway...

SHRI SANTOSH BAGRODIA (Rajasthan): Madam, it is not fair. Ignorance is not the virtue of the House. It is not fair. You cannot call the entire House as ignorant. You can talk about an individual or individuals *...(Interruptions)...* You cannot challenge anybody *...(Interruptions)...*

SHRI GURUDAS DAS GUPTA: I have not said, "Of the House." I said, "In the House." *...(Interruptions)...* English is also a subject to be learnt *...(Interruptions)...* Anyway, the point is, *...(Interruptions)...*

SHRI R. MARGABANDU: Madam, he cannot say that other Members are ignorant of law *...(Interruptions)...* Is he the only man who knows law? *...(Interruptions)...* He should withdraw those words *...(Interruptions)...*

SHRI GURUDAS DAS GUPTA: Madam, I said, "Ignorance is a virtue in this House." *...(Interruptions)...*

SHR ADIK SHIRODKAR (Mahrashtra) : May I throw a little light on, by using words, how he disgraced the Members of the House? Madam, "Members" and "House" are synonymous in the English language. What he states means the same thing, that we are ignorant. We are thankful for your knowledge and ignorance of the English language *...(Interruptions)...*

THE DEPUTY CHAIRMAN: At least, the Chair is not part of it *...(Interruptions)...* I am not ignorant.

श्री ओंकार सिंह लखावत: महोदय, यहां बैठे लोग इतने अज्ञानी नहीं है कि जिस के लिए उन्हें सर्टिफिकेट देना पड़े। ...(व्यवधान).. और जो लोग आज कुछ नहीं बोल रहे है, वह सारे अज्ञानी नहीं हैं। ...(व्यवधान).. आप बहुत विद्वान हैं, लेकिन सब अज्ञानी नहीं है। ...(व्यवधान)... यह मत बोलिए।

उपसभापति: बोलिए-बोलिए, दो मिनिट में बात कह दीजिए।

Let us get enriched with his knowledge *...(Interruptions)...*

श्री ओंकार सिंह लखावत: महोदया, ये शब्द वापिस क्यों नहीं ले लेते है कि सब लोग अज्ञानी है।

SHRI ADIK SHIRODKAR:- From today onwards, we will call him as gyani *...(Interruptions)...*

SHRI GURUDAS DAS GUPTA: I take it in good taste *...(Interruptions)...*

3.00 P.M.

The present Goverment is doing a grave wrong to the country. The Government is bound to be in the dock. Dock in history; of course, according to my opinion, I am not to be dictated by anybody else's conscience. Also, in the dock are those who are silently colluding in the doing of wrong. They may not be in power today. They might have been in power yesterday. Whatever may be the situation, colluders are no less wrong-doers than those who are commiting the wrong. madam, the point is that the

country is facing a grave danger of bipartite political system. If the two parties combine then the rest may be ignored. If the two parties combine then their combined will, whether arbitarry or reasonable, can be imposed on the nation. ...*(Interruptions)*... But let it be said: the Minister may be delivering his last speech, but the nation will deliver the last blow. Madam, just with one example I will end. Only a few days back, a leading scientist of West Bengal was carrying on research in cancer in the Jadhavpur University. While he was almost completing his research, in the final stage, he was served with a notice by a nodal authority that he has no right to carry on with the research. The research had to be stopped. This is what is in store for the nation. Let me tell my friends, please do not believe that the commitment for secularism can be carried on, the fight against communilism can be carried on, without the rigid position regarding the so-called reforms being diluted. This is a suggestion to my friends who are sitting quietly, colluding with the others in passing the gravest criminality that the nation has ever faced. ...*(Interruptions)*... I have not called you the colluder.

श्री सिकन्दर बख्त: सदर साहिबा, जितने हजरात ने इस बहस में दुबारा से हिस्सा लिया, मैं उनका शुक्रगुजार हूं कि उनको इस विषय से, इस सब्जेक्ट से, इस मौजू से इतनी दिलचस्पी है और लगता ऐसा है कि बार-बार अपनी दिलचस्पी का बहुत ही सुन्दर शब्दों में इजहार करने के बाद भी तकसीम पूरी नहीं होती है। तो हरेक के लिए बहुत खुशी का मौजू है कि सभी इतनी दिलचस्पियों से काम लेते है।

मैडम, मेरा कोई इरादा तकरीर करने का नहीं था, बेसिकली तो एक नई बात आई है आज, जो कि ला-कमीशन की आई है। इस बारे में मैं आपके सामने दो चार बातें जरूर कहना चाहूंगा। यहां ला-कमीशन का जिक्र करते हुए कुछ साहबान ने जिक्र किया कि बहुत सारे साइंस के मजमून को समझने वाले हजरात की राय को हम नजरअंदाज कर रहे हैं। मैं यह कहना चाहता हूं कि हम जिस रास्ते पर चल रहे हैं, वह भी रास्ता हिन्दुस्तान के सबसे ऊंचे साइंटिस्टों की महीनों की मेहनत का नतीजा है। मैं उन साइंटिस्ट के नाम क्या लूं — राजा रमन्ना साहब, डा० मशेलकर साहब, डा० अब्दुल कलाम साहब, पीयूष मनकड़ साहब, वगैरह। कोई तकाबुल का मौका नहीं है कि कौन साइंटिस्ट बड़ा है, कौन छोटा है, इसकी बात नहीं है, लेकिन कम लोगों ने, जो इस विषय से वाकिफ हैं और हमारे यहां आने से पहले कांग्रेस के लोगों ने भी बहुत सारे लोगों से मश्विरा करने के बाद और बहुत बा-इल्म लोगों के साथ मश्विरा करने के बाद बातचीत की है। आज हमारे अज़ीज़ ने, गुरुदास दासगुप्त ने यह भी इल्ज़ाम लगाया कि क्योंकि इनसे पास कहने को कुछ नहीं था, इसलिए वे भी और ये भी खामोश हैं, मगर यह भी उन्होंने कहा कि खामोशी बड़ी ऐलोक्वेंट है, यह कि उनकी खामोशी के अंदर वे तक़रीरें गूंज रही हैं जो उन बैंचिस से और इन बैंचिस से पहले हो चुकी है और जिनका कोई मुकाबला ही नहीं था। इस तरफ से भी एक तक़रीर हुई थी और मैंने अपने पहले रद्दे-अमल के मौके पर उसकी दाद दी थी और मैंने यह कहा था कि मेरा दिल उधर दौड़ रहा है, जिधर से अभी 20 सैकिंड की तक़रीर हुई थी। मैं खाली एक मश्विरा अपने अज़ीज़ को देना चाहता हूं। ये अपील बहुत करते हैं, मगर अपील करने का सलीका क्या है, उसको बिल्कुल नज़रअंदाज़ करते हैं। जब बात करते हैं तो तलवारें निकली हुई होती हैं, जब अपील करते हैं तो वह भी तलवारों के साथ करते हैं, अब बताइए कि हमारा रद्दे-अमल तलवारों की तरफ हो या अपील की तरफ हो। अरे भाई, तुम ही कहो कि अंदाज़े गुफ्तगु क्या है? जिस तरीके से तुम हमारी खबर लेते हो, उस ज़बान से तुम अपील भी करते हो, किस तरफ तवज्जो करें, बताइए।

सदर साहिबा, एक आखिरी बात कहकर, अपनी यह बात खत्म करके मैं सिर्फ ला कमीशन के बारे में बातचीत करूंगा और वह यह है कि हम ऐसा महसूस करते हैं कि हम सिर्फ अपनी राय को दुरूस्त मानते हैं और यह समझ लेते हैं कि हमारी राय से जो मुख्तलिफ है, उन्होंने शायद मुल्क के लिए सोचना बंद कर रखा है। मुझे शिकायत है इसमें। मुझे यह आप पर इल्ज़ाम लगाने का हक नहीं है कि मैं यह कहूं कि आप मुल्क के लिए नहीं सोच रहे हैं, लेकिन जैसे मैं इसको तस्लीम करता हूं वैसे ही मैं उम्मीद करता हूं कि आप भी तस्लीम करें कि हम भी मुल्क की तरफ, उसको देखकर सोचने की कोशिश करते हैं, कम से कम इतना तो ऐप्रिसिएट कर लें। मैंने यह मुझे यकीन है कि मेरे अज़ीजों ने, जो उधर बैठे हैं, यह कभी नहीं कहा कि मुश्किलात् कभी

नहीं आएंगी। उन्होंने सिर्फ इतना कहा है कि हम आज जिस दायरे में आ चुके हैं, जिस मैदान में उतर चुके हैं, वहां से वापिस आना नामुमकिन है। जो मुल्क उस दायरे में जाने से इन्कार करते रहे हैं, वे भी आज क्यू में खड़े हुए हैं। 24 मुल्क हैं, जिनमें चाइना शामिल है कि हमको इस मैदान में आने दो। उस मैदान में जाने के बाद भी, कुछ बनाना का जिक्र किया था किसी ने कि यूरोपियन यूनियन और उनके दरम्यान कुछ रद्दोकद चल रहा है, चलेगा। हमने यह कभी नहीं कहा कि उस मैदान में चले जाने के बाद मुश्किलात् से सामना नहीं आएगा, आएगा, लेकिन हम यह कहते हैं कि मैदान में उतरकर और वहीं जाकर हम अपनी मुश्किलात् का हल निकाल सकते हैं, वहां से बाहर रहकर मुश्किलात् का हल नहीं निकाल सकते हैं। और यहां से गालिबन दीप की बात की, शेर की बात कही थी, तो मैंने यह शेर लोक सभा में पढ़ा था, उसको दोहराना चाहता हूं:—

हां, जां के ज़यां की हमको भी तश्वीश है, लेकिन क्या कीजे

हर राह उधर जो जाती है, मक्तल से गुज़र कर जाती है।

मकतल से गुज़रकर जाना होगा, फिर लड़ना होगा और फिर हिन्दुस्तान के मफाद के लिए जीतना होगा, यह हमारा लक्ष्य है।

सदर साहिबा, लॉ-कमीशन के बारे में मैं यह अर्ज़ करना चाहता हूं कि मैं टैक्निकल बातों का सहारा लेकर किसी मसले पर झुकना पसंद नहीं करता, वरना वाक्या यह है कि लॉ-कमीशन ने कोई कम्युनिकेशन मुझे ऐड्रेस नहीं की, मेरी मिनिस्ट्री को ऐड्रेस नहीं की। मगर मैं ईमानदारी से यह नहीं कह सकता हूं कि वह बात मुझ तक पहुंची। पहुंची मगर कुछ देर के बाद और बिल्कुल तीसरी जगह से होकर मेरे पास पहूंची। यानी यह लॉ-कमीशन का सिलसिला जिस तारीख का है ....(व्यवधान)

SHRI GURUDAS DAS GUPTA: 26th February.

SHRI SIKANDER BAKHT: I know it, my dear. मैं खाली कागज़ बाहर निकाल रहा हूं। मैडम, 26 फरवरी को लॉ-कमीशन ने लिखा और कोई हफ्ते-10 रोज के बाद इनडॉयरेक्टली प्राईम-मिनिस्टर के पास और मेरे पास वह भेजा गया और मैंने उसी दिन रियेक्ट किया और लॉ-कमीशिन की खिदमत में जो उनके ऐतराज़ात थे, मैंने उनका जवाब दिया और मेरा खत लॉ-कमीशन को 9 मार्च को भेजा गया। मैंने उसकी नकल प्राईम-मिनिस्टर को भेजी....(व्यवधान)

श्री नीलोत्पल बसु: आप एक मिनट के लिए यील्ड करें, मेरा एक सवाल है....(व्यवधान)

उपसभापति: अभी पूरा सुनने दीजिए....(व्यवधान)

श्री सिकन्दर बख्त: मेरी बात खत्म होनी चाहिए। मैंने इन हज़रात की तकरीरें सुनी हैं। ये क्या बात है....(व्यवधान)

THE DEPUTY CHAIRMAN: No. Let him finish it. ...(*Interruptions*) No, I am not allowing it.

SHRI NILOTPAL BASU: Just one minute, Madam.

THE DEPUTY CHAIRMAN: Let him finish it. I will allow you afterwards; not now.

श्री सिकन्दर बख्त: मैं इस बात को हश-अप कर सकता था मगर मैं चाहता हूं कि मैं इस हाऊस को कान्फिडेंस में लूं। लॉ-कमीशन की बात जब मुझ तक पहुंची तो मैंने उसको छोटी नज़र से नहीं देखा। आप कहें तो जो मैंने चिट्ठी लिखी थी, वह पढ़कर बता दूं। ज्यादा बातें जो उसमें कही गई है, वे वही कही गई हैं जिनको हम प्रॉडक्ट पेटेंट के वक्त आप सबसे मशविरा करने के बाद लाएंगे और वे उसी वक्त ली जाएंगी। हमें ऐतराज़ नहीं है उन बातों पर ....(व्यवधान)

SHRI GURUDAS DAS GUPTA: I beg to differ, Madam.

THE DEPUTY CHAIRMAN: Let him finish it.

श्री सिकन्दर बख्त: ये क्या बात है ...(व्यवधान)

SHRI GURUDAS DAS GUPTA: The Report does not say so.

THE DEPUTY CHAIRMAN: Let the Minister reply to it.

श्री सिकन्दर बख्त. ये आपके पास ही नहीं है, ये मेरे पास भी मौजूद है ....(व्यवधान)

SHRI GURUDAS DAS GUPTA: Why don't you place it on the Table of the House? ....(*Interruptions*)

SHRI SIKANDER BAKHT: Don't try to convince me. Let me speak now. Have patience. क्योंकि बहुत इरिटेशन होता है। इधर हम खामोशी से आपको सुनते हैं तो मेहरबानी करिए, हमारी जान को माफ करिए। मैं सारा का सारा पढ़कर सुना सकता हूं मगर मोटे तौर से बता रहा हूं कि इस वक्त जिस रास्ते से हम गुज़र रहे हैं, वह सिर्फ वक्त गेन करने के लिए गुज़र रहे हैं। हमें 19 अप्रैल से पहले-पहले कुछ करना था जो कि निहायत मामूली है जिसमें बहुत लंबी-चौड़ी बात करनी नहीं है और जिस कांप्रिहैंसिव लेजिस्लेशन के साथ हमें आना होगा, सबके साथ मिलकर वह लेजिस्लेशन हम बनाने की कोशिश करेंगे और वह हमें 2005 तक करना होगा। हम यह इंतजाम इस बात के लिए कर रहे हैं ताकि हम अपने दवाओं के कारखानों को रिस्ट्रक्चर कर सकें।

महोदया, यहां 3,000 ऐप्लीकेशंस का जिक्र किया गया, हमारे कौशिक साहब ने किया, जो वहां तशरीफ रखते हैं। ठीक कहते हैं वे कि 3,000 ऐप्लीकेशंस आई हैं लेकिन 3,000 ऐप्लीकेशंस प्रॉडक्ट पेटेंट के लिए आई हैं, ई०एम०आर० के लिए नहीं आई हैं। ई०एम०आर० के लिए आनी तो अब शुरू होंगी और उनको प्रोसेस करने में 5-6 साल लगेंगे। अगर प्रॉडक्ट पेटेंट करना होगा तो उन ऐप्लीकेशंस पर हमें गौर करना ही होगा। ठीक बात है। इस गौर करने के मसले को हम 2005 तक ले जाना चाहते हैं ताकि हमारे यहां के फार्मेस्युटिकल कारखाने अपने आपको रिस्ट्रक्चर कर लें, अपने आपको तब्दीलियों के काबिल बना लें ताकि वे उसका सामना कर सकें। मैं और बातों में नहीं जाना चाहता, मेरी दरख्वास्त यह है कि मेहरबानी करके इस बिल को कंसीडरेशन में लिया जाए।

†श्री सिकंदर बख्त: सभापति महोदय, जितने हज़रात ने इस बहस में दो बार से हिस्सा लिया, मैं उनका शुक्रगुज़ार हूं कि उन्होंने इस विषय से, इस मौजूअ से इतनी दिलचस्पी ली और लगता ऐसा है कि बार-बार अपनी दिलचस्पी का बहुत ही सुंदर शब्दों में इज़हार करने के बाद भी तसल्ली पूरी नहीं होती है।

†[ ]Transilteration in Arabic Script

तो हर ऐक के लिए बहुत खुशी का मौजूअ है कि सभी इतनी दिलचस्पी से काम लेते हैं। मैडम, मेरा कोई इरादा तकरीर करने का नहीं था, बेसिकली तो ऐक नई बात आई है आज, जो कि लॉ कमीशन की आई है। इस बारे में मैं आपके सामने दो-चार बातें जरूर कहना चाहूंगा। यहां लॉ कमीशन का जिक्र करते हुए कुछ माननीय सदस्यों ने जिक्र किया कि बहुत सारे साइंसेस के मज़मून को समझने वाले हज़रात की राय को हम नज़रअंदाज कर रहे हैं। मैं यह कहना चाहता हूं कि हम जिस रास्ते पर चल रहे हैं, वह भी बहुत हद तक हिंदुस्तान के सब से ऊंचे साइंटिस्टों की कोशिशों की मेहनत का नतीजा है। मैं

इन साइंटिस्ट के नाम क्या लूं... राजा रमन्ना साहब, डॉक्टर मशेलकर साहब, डॉक्टर अब्दुल कलाम साहब, पीयूष गोयल साहब वगैरह। किसी तकाबल का मौजूअ नहीं है कि कौन साइंटिस्ट बड़ा है, कौन छोटा है, इस की बात नहीं है, लेकिन हम लोगों ने जो इस पेशे से वाकिफ हैं और हमारे यहां आने से पहले कांग्रेस के लोगों ने भी बहुत सारे लोगों से मशविरा करने के बाद और बहुत बाइल्म लोगों के बाद मशविरा करने के बाद बात तय की है। आज हमारे अज़ीज़ ने, अगर वह

لا کمیشن کے بارے میں بات چیت کر رہا تھا اور وہ یہ ہے کہ ہم ایسا محسوس کرتے ہیں کہ ہم صرف اپنی رائے کو درست مانتے ہیں اور یہ سمجھ لیتے ہیں کہ ہماری رائے سے جو مختلف ہیں انہوں نے شاید ملک کے لئے سوچنا بند کر دیا ہے۔ مجھے شکایت ہے اس میں مجھے یہ آپ پر الزام لگانے کا حق نہیں ہے کہ میں یہ کہوں کہ آپ ملک کے نہیں سوچ رہے ہیں، لیکن جیسے میں اسکو میں تسلیم کرتا ہوں ویسے ہی میں امید کرتا ہوں کہ آپ بھی تسلیم کریں کہ ہم کہ ہم بھی ملک کی طرف اس کو دیکھ کر سوچنے کی کوشش کرتے ہیں۔ کم سے کم اتنا تو ایپری شی ایٹ کریں۔ میں نے یا مجھے یقین ہے کہ میرے عزیزوں نے جو ادھر بیٹھے ہیں یہ کبھی نہیں کہا کہ مسئلات کبھی نہیں آئیں گی۔ انہوں نے صرف اتنا کہا ہے کہ ہم آج جس دائرے میں آچکے ہیں جس میدان میں اتر چکے ہیں وہاں سے واپس آنا ممکن نہیں ہے۔ جو ملک اس دائرے میں آنے سے انکار کرتے رہے ہیں وہ بھی آج لائن میں کھڑے ہیں۔ چوبیس ملک ہیں جن میں چائنا شامل ہے کہ ہمکو اس میدان میں آنے دو، اس میدان میں آنے کے بعد بھی کچھ بنانا کھانا کر کیا تھا کسی نے کہ یورپین یونین اور ان کے درمیان کچھ ڈوٹو کہ چل رہا ہے، چلے دو اس گپتا نے یہ بھی الزام لگایا کہ کیونکہ ان کے پاس کہنے کو کچھ نہیں تھا اس لئے وہ بھی خاموش ہیں۔ مگر یہ بھی انہوں نے کہا کہ خاموشی بڑی ایلوکوینٹ ہے، یہ انکی خاموشی کے اندر وہ تقریر میں گونج رہی ہیں جو ان بینچیز سے اور ان بینچز سے پہلے ہو چکی ہیں۔ اور جنکا کوئی مقابلہ ہی نہیں تھا۔ اس طرف سے بھی ایک تقریر ہوئی تھی اور میں نے اپنے پہلے رد عمل کے موقع پر اس کی داد دی تھی۔ اور میں نے یہ کہا تھا کہ میرا دل ادھر دوڑ رہا ہے جو ہر سے ابھی بیس سیکنڈ کی تقریر ہوئی تھی۔ میں خالی ایک مشورہ اپنے عزیز کو دینا چاہتا ہوں۔ یہ اپیل بہت کرتے ہیں مگر اپیل کرنے کا سلیقہ کیا ہے اسکو یا تو کل نظر انداز کرتے ہیں۔ جب بات کرتے ہیں تو تلواریں نکلی ہوئی ہوتی ہیں۔ جب اپیل کرتے ہیں تو وہ بھی تلواروں کے ساتھ کرتے ہیں۔ اب بتایئے ہمارا رد عمل تلواروں کی طرف ہو یا اپیل کی طرف ہو۔ ارے بھائی تم ہی کہو کہ انداز گفتگو کیا ہے؟ جس طریقے سے تم ہماری غیر لیتے ہو اس زبان سے تم اپیل بھی کرتے ہو کس طرف توجہ کریں بتایئے۔

صدر صاحب، میں ایک آخری بات کہہ کر اپنی یہ بات ختم کرتے ہیں صرف

شری سکندر بخت: آئی نو اٹ مائی ڈیر۔ میں خالی کاغذ باہر نکال رہا ہوں۔ میڈم ۲۶ فروری کو لاء کمیشن نے لکھا اور کوئی ہفتہ دس روز کے بعد ان ڈائرکٹلی پرائم منسٹر کے پاس اور میرے پاس وہ بھیجا گیا اور میں نے اسی دن ری ایکٹ کیا اور لاء کمیشن کی خدمت میں جو کچھ اعتراضات تھے میں نے انکا جواب دیا اور میرا خط لاء کمیشن کو ۹ مارچ کو بھیجا گیا۔ میں نے اسکی نقل پرائم منسٹر کو بھیجی... "مداخلت"...

شری نیلوتپل بسو: آپ ایک منٹ لیکئے پلیز کریں۔ میرا ایک سوال ہے... ..."مداخلت"...

اپ سبھاپتی: ابھی پورا سننے دیجئے ..."مداخلت"...

شری سکندر بخت: میری بات ختم ہونی چاہیئے۔ میں نے ان حضرات کی تقریریں سنی ہیں۔ یہ کیا بات ہے..."مداخلت"...یا

THE DEPUTY CHAIRMAN: No, Let him finish it. ...(*Interruptions*)... No, I am not allowing it.

SHRI NILOTPAL BASU: Just one minute, Madam.

THE DEPUTY CHAIRMAN: Let him finish it. I will allow you after-wards; not now.

گا۔ ہم نے یہ کبھی نہیں کہا کہ اس میدان میں چلے جانے کے بعد مشکلات سے سامنا نہیں آئے گا، آئے گا، لیکن ہم یہ کہتے ہیں کہ میدان میں اتر کر اور وہیں جاکر ہم اپنی مشکلات کا حل نکال سکتے ہیں۔ وہاں سے باہر رہ کر مشکلات کا حل نہیں نکال سکتے۔ اور یہاں سے غالباً دیپ کی بات کی، شمع کی بات کہی تھی، تو میں نے یہ شعر لوک سبھا میں پڑھا تھا اسکو دوہرانا چاہتا ہوں:

ہاں جاں کے زیاں کی ہمکو بھی تشویش ہے لیکن کیا کیجئے
ہر راہ ادھر جاتی ہے مقتل سے گذر کر جاتی ہے

مقتل سے گزر جانا ہوگا، پھر لڑنا ہوگا، اور پھر ہندوستان کے مفاد کے لئے جیتنا ہوگا، یہ ہمارا المکش ہے۔ صدر صاحبہ، لاء کمیشن کے بارے میں میں یہ عرض کرنا چاہتا ہوں کہ میں ٹیکنیکل باتوں کا سہارا لیکر کسی مسئلہ پر جھگڑنا پسند نہیں کرتا۔ ورنہ واقعہ یہ ہے کہ لاء کمیشن نے کوئی کمیونی کیشن مجھے ایڈریس نہیں کی، میری منسٹری کو ایڈریس نہیں کی مگر میں ایمانداری سے یہ نہیں کہہ سکتا ہوں کہ وہ بات مجھ تک پہنچی۔ پہنچی مگر مجھے دیر کے بعد اور بالکل تیسری جگہ سے ہوکر میرے پاس پہنچی۔ یہ لاء کمیشن کا سلسلہ جس تاریخ کا ہے..."مداخلت"..

شری گرودداس داس گپتا: ۲۶ فروری۔

†شری سکندر بخت: میں اس بات کو نہیں۔ اپ کر سکتا تھا، مگر میں چاہتا ہوں کہ میں اس ہاؤس کو کانفیڈنس میں لوں۔ لاء کمیشن کی بات جب مجھ تک پہنچی تو میں نے اسکو چھوٹی نظر سے نہیں دیکھا۔ اپ نہیں تو جو میں نے چٹھی لکھی تھی وہ پڑھکر بتا دوں۔ زیادہ باتیں جو اسمیں لکھی گئی ہیں جنکو ہم پروڈکٹ پیٹنٹ کے وقت اپ سب سے مشورہ کرنے کے بعد لائیں گے اور وہ اسی وقت کی جائینگی۔ ہمیں اعتراض نہیں ہے ان باتوں پر "مداخلت" شری گرودا س داس گپتا: آئی بیگ ٹو ڈفر، میڈم۔

اپ سبھا ادھیکش: لیٹ ہم فنش اِٹ۔

†شری سکندر بخت: یہ کیا بات ہے۔ ... مداخلت" ... †

SHRI GURUDAS DAS GUPTA: The Report does not say so.

THE DEPUTY CHAIRMAN: Let the Minister reply to it.

†شری سکندر بخت: یہ آپکے پاس ہی نہیں ہے میرے پاس بھی موجود ہے۔ ... "مداخلت" ...

†[ ]Transilteration in Arabic Script

SHRI GURUDAS DAS GUPTA: Why don't you place it on the Table of the House? ...(*Interruptions*).

SHRI SIKANDER BAKHT: Don't try to convince me. Let me speak now. Have patience.

†کیونکہ بہت اوری ٹیشن ہوتا ہے۔ ادھر ہم خاموشی سے آپکو سنتے ہیں تو مہربانی کر دیجئے ہماری جان کو معاف کر دیجئے، میں سارا کا سارا پڑھکر سنا سکتا ہوں۔ مگر موٹے طور سے بتا رہا ہوں کہ اس وقت ہم جس راستے سے گزر رہے ہیں وہ صرف وقت لگن کرنے کے لئے گزر رہے ہیں ہمیں ۱۹ اپریل سے پہلے پہلے کچھ کرنا تھا جو کہ نہایت معمولی ہے۔ جس میں بہت لمبی چوڑی بات کرنی نہیں ہے اور جس کمیٹی پہنسیو لیبسلیشن کے ساتھ ہمیں آنا ہوگا، سب کے ساتھ ملکر وہ لیبسلیشن بنانے کی کوشش کریں گے اور وہ ہمیں ۲۰۰۵ء تک کرنا ہوگا۔ ہم یہ انتظام اس بات کے لئے کر رہے ہیں تاکہ ہم اپنے دواؤں کے کارخانوں کو ری اسٹرکچر کر سکیں۔

مہودیہ، یہاں تین ہزار درخواستوں کا ذکر کیا گیا، ہمارے کوشک صاحب نے کیا، جو وہاں تشریف رکھتے ہیں۔ ٹھیک کہتے ہیں وہ کہ تین ہزار درخواستیں آئی ہیں لیکن تین ہزار درخواستیں پروڈکٹ پیٹنٹ کے لئے آئی ہیں، ای ایم آر کے لئے

†[ ]

SHRI S. VIDUTHALAI VIRUMBI: The Minister should reply to the points raised by us.

श्री मोहम्मद सलीम: मैडम, काउंसिल ऑफ मिनिस्टर्स की कलेक्टिव फंक्शनिंग होती है। रिपोर्ट जब वह भेजते है तो लॉ-मिनिस्ट्री जो नोडल मिनिस्ट्री है, उसको भेजते है ...**(व्यवधान)** यह कोई आरग्यूमेंट नहीं हुआ कि 10 दिन के बाद मेरे पास आया। जब प्राईम-मिनिस्टर लॉबी समझती है कि यह जरूरी है किसी बिज़नेस हाऊस के लिए तो रातों-रात चलकर आपके पास आ जाता है...**(व्यवधान)** यह नहीं कह सकते कि लॉ-मिनिस्टर को भेजा, मेरे पास 10 रोज बाद आया ....**(व्यवधान)** भरे सैशन में यह बिल पास हो रहा है तो वह नहीं कह सकते कि लॉ-मिनिस्ट्री ने देर में भेजा, मेरे पास देर में आया ...**(व्यवधान)**

†[ ]श्री मोहम्मद सलीम: मैडम, काउंसल आफ मिनिस्टर्स की कलेक्टिव फंक्शनिंग होती

†[ ]Transilteration in Arabic Script

है। रिपोर्ट जब वह भेजते हैं तो लॉ मिनिस्ट्री जो नोडल मिनिस्ट्री है उसको भेजते हैं... "व्यवधान"... यह कोई आर्गुमेंट नहीं हुआ कि दस दिन के बाद मेरे पास आया। जब प्राईम मिनिस्टर लॉबी समझती है कि यह ज़रूरी है किसी बिज़नेस हाउस के लिए तो रातों रात चलकर आपके पास आ जाता है... "व्यवधान" यह नहीं कह सकते कि लॉ मिनिस्ट्री को भेजा मेरे पास दस रोज़ बाद आया... "व्यवधान"... भरे सैशन में यह बिल पास हो रहा है तो वह नहीं कह सकते कि लॉ मिनिस्ट्री ने देर में भेजा। मेरे पास देर में आया.....]

THE DEPUTY CHAIRMAN: Mr. Gurudas Das Gupta, are you withdrawing your Resolution, or do you want it to be put to vote?

SHRI GURUDAS DAS GUPTA: I am not withdrawing it. ...(*Interruptions*)

THE DEPUTY CHAIRMAN: I am putting the resolution to vote. Please sit down. ...(*Interruptions*).

SHRI S. VIDUTHALAI VIRUMBI: Madam, we have raised many points which should be replied to. ...(*Interruptions*).

THE DEPUTY CHAIRMAN: I will now put the resolution to vote.

SHRI GURUDAS DAS GUPTA: In protest, Madam, we are walking out of the House.

(At this stage some hon. Members left the Chamber).

THE DEPUTY CHAIRMAN: The question is:

"That this House disapproves of the Patents (Amendment) Ordinance, 1999 (No. 3 of 1999) Promulgated by the President on the 8th January, 1999"

The motion was negatived.

THE DEPUTY CHAIRMAN: Now, I take up the amendments moved by Shri Sikander Bakht.

The question is:

"that the following amendments mde by the Lok Sabha in the Patents (Amendment) Bill, 1999 be taken into consideration, namely:—

The Patents (Amendment) Bill, 1998.

ENACTING FORMULA

1. That at page 1, line 1, *for* "Forty-ninth" *substitute* "Fiftieth."

CLAUSE 1

2. That at page 1, line 3, *for* "1998" *substitute* "1999".

CLAUSE 9

3. That at page 4, *for* line 31 to 39, substitute—

Repeal and Saving.

Ord. 3 of 1999 "9. (1) The patents (Amendment) Ordinance 1999, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Principal Act, as amended by the Patents (Amendment) Ordinance, 1994, which ceased to operate, or under the Patents

Ord. 13 of 1994

Ord. 3 of 1999

(Amendment) Ordinance, 1999, shall be deemed to have been done or taken under the corresponding provisions of the Pricipal Act as amended by this Act.

(3) All applications made in respect of claims for patent of invention specified under sub-section (2) of section 5 of the principal Act, from the date of cesser of the Patents (Amendment) Ordinance, 1994 till the date on which this Act receives the assent of the President (both days inclusive) shall be deemed to have been validly made as if the provisions of the principal Act, as amended by this Act, had been in force at all material times."

Ord. 13 of 1994.

The motion was adopted.

SHRI SIKANDER BAKHT: Madam, I move:

"That the amendments made by the Lok Sabha in the Bill be agred to."

The question was put and the motion was adopted.

THE DEPUTY CHAIRMAN: Now, we take up the Short Duration Discussion.

SHRI M. VENKAIAH NAIDU: Madam, I am on a point of order. During the discussion in the morning one of the

hon. Members protested against the Chairman's ruling and said that the Rules of Procedure and Conduct of Business in Rajya Sabha say...

THE DEPUTY CHAIRMAN: Who said it?

SHRI M. VENKAIAH NAIDU: Shri Sanatan Bisi. Afterwards Shri Md. Salim also...

THE DEPUTY CHAIRMAN: I gave a ruling on that. Now, that question is closed.

SHRI M. VENKAIAH NAIDU: It is there on the record, Madam.

THE DEPUTY CHAIRMAN: It is not on the record. I made it very clear that the Chairman's ruling stands. The Chairman's ruling was limited to a private Member laying a Government document. The Member was asking the Government to lay it. The Chairman's ruling does not stop a Member to ask the Government to lay papers. I hope you follow this. These are two different aspects.

SHRI M. VENKAIAH NAIDU: But, he threatened to withdraw from the House in protest.

THE DEPUTY CHAIRMAN: But, he did not withdraw. Many Members do a lot of things. Let us not be so sensitive about it. Some day you may do that. So, let us be prepared for such eventualities. He never did it. I asked him to sit down and he sat down.

Now, we take up the Short Duration Discussion. Dr. Manmohan Singh.

SHORT DURATION DISCUSSION

Issues raised by former advisor to the Finance Minister and the alleged improprieties arising therefrom

DR. MANMOHAN SINGH (Assam): Madam, with your permission I beg to raise a discussion under Rule 176 on the issues raised by the former Advisor to the Finance Minister and the alleged improprieties arising thereof.

Madam, the Government has been swearing day in and day out about its commitment to the National Agenda for Governance. In paragraph 1 on Governance, that National Agenda stated:

> "Our commitment to the people is to give a stable, honest, transparent and efficient Government capable of accomplishing all-round development."

Madam, I say with sorrow—that the former Advisor—or Consultant or what ever one chooses to call him—to the Finance Minister—has opened a can of worms. That raises serious questions about the Government's integrity. As the weekly magazine *India Today* has put it in its latest issue, "He has hit the Government on the one attribute it treasures most, that is, its integrity."

Madam, in substance, I wish to make three or four important points and, right in the beginning, I would like to summarise the issues as I see them. Later on, in my speech, I will try to develop some of these points at some length.

What are these issues that emerge out of the three articles that have appeared and signed by the former Advisor to the hon. Finance Minister? These are, basically, three or four issues; and I can summarise them. The first is that the BJP's top two leaders do not pull along and the resultant factionalism has hamstrung this Government. The second is there is a coterie around the Prime Minister which meddles with matters involving governance. Third, the BJP has reduced the governance of this large country to a spoils system in which each players picks a big business client and pushes his or her interest. Factional rivalry between major players, especially the PM and HM and their respective camp followers, fosters competitive ethical impropriety. As a result, the country's governance is a casualty. The Government seems to have said good bye to canons of good governance. The unstable and incoherent governance provides a fertile ground for power